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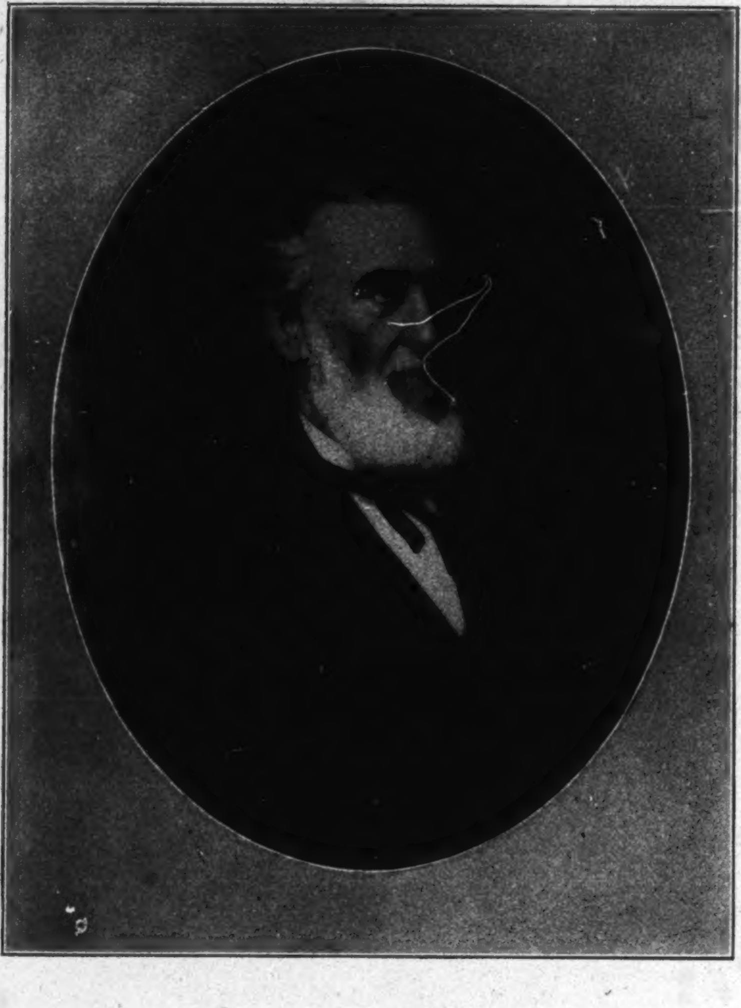

Yours very truly

G. L. Shaftin

LIFE

DIARY AND LETTERS
OF
OSCAR LOVELL SHAFTER

Associate Justice Supreme Court of California
January 1, 1864, to December 31, 1868

EDITED FOR EMMA SHAFTER-HOWARD
BY FLORA HAINES LOUGHEAD

A Daughter's Tribute to a Father's Memory

> *All things hasten to decay; all fall, all perish. Man dieth, iron consumeth, wood decayeth, towns crumble, strong walls fall down, the rose withereth away; the war horse waxeth feeble, gay trappings grow old; all the works of man's hands perish. Thus are we taught that all die, both clerk and lay; and short would be the fame of any after death if their history did not endure, by being written in the book of the clerk.*—MASTER WACE, His Chronicles of the Norman Conquest.

San Francisco:
THE BLAIR-MURDOCK COMPANY
1915

Copyright, 1915
by Emma Shafter-Howard

IN CHURCH

In Memoriam, Oscar Lovell Shafter
October 19, 1812—January 23, 1873

"A Sower went forth to sow,—"
We heard the parable read,
And we saw the picture glow
Above the minister's head.

The deepening twilight fell
Over the Sower's way,—
And the story went on to tell
Of what he had done that day.

He had scattered wide the seed
With careful, generous hand,
And earnest thought of the need
Of harvest rich for the land.

Some fell on ground dry and cold,
And the birds had gleaned a part;
Some will yield a hundred-fold
In many a softened heart.

The darkness comes on apace,—
To the picture I strain my eyes;
And it seems, for a little space,
The Sower has touched the skies.

H. P. Stearns.

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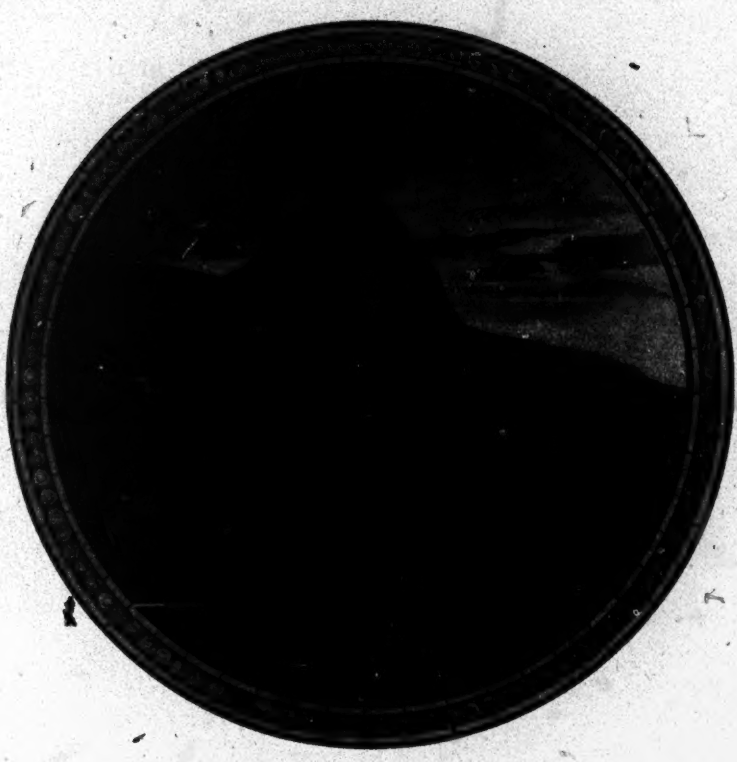

From the original
drawing by Donald McDonald
of Boston, Mass.

TABLET BENEATH MEMORIAL WINDOW

"THE SOWER"

THE CHANCEL WINDOW

IN MEMORIAM

OSCAR LOVELL SHAFTER

BORN OCTOBER 19, 1812 DIED JANUARY 23, 1873

BY HIS CHILDREN

The kingdom of Heaven
is likened unto a man which soweth
good seed in his field.
—Matthew xiii: 24.

I

A MAN AMONG MEN

NO MAN lives for himself alone. The influence of every individual life, for weal or for woe, goes down through the generations. When feeble, or purposeless, or base, it soon becomes so attenuated by admixture with the universal current that it merges with it and is lost to sight; and it is well that it should be so. In other cases it rushes onward, a vital force, gathering strength from union with kindred forces, and bearing humanity forward upon its bosom. And again it is well for the race.

The history of every new State reflects the character of her leaders. The California of to-day, in no small degree, owes the eminent rank she has attained to a little group of men who planted their standards, in pioneer times, high above the greed of gain, the mire of dishonest politics, the dissipation and vice that were corrupting society, and rallied about them the forces that made for education, for righteousness and for progress. The first immigration to California had been composed, in large part, of men of courage and of character. The first few years sped by, the avenues of travel were cleared, actual assurances had gone abroad of vast fortunes acquired in the "diggings," most of the home-loving Argonauts, successful or unsuccessful, had returned to their families, leaving behind them the minority, many of whom were wanderers or wastrels, and the riff-raff of the world rushed in.

Fortunate it was for California that simultaneously a tide of immigration of a different order set in. Together with the early miners returning with wives and children to the State they had learned to love, there came men of means, men of brains, men of purpose, allured by testimony to the State's rich resources, her favored climate, her great commercial advantages, her attractions for the home-builder. Arriving at San Francisco, they found a city where chaos reigned, where the quiet pleasures of home were almost unknown or forgotten, where prosperity expressed itself in lavish display, and where a general disposition prevailed to defy authority and to follow the lead of unbridled license.

Unquestionably this contact was a benefit to both. Some strait-laced puritan notions of human depravity went down before the undoubted generosity and the kindness, the open hospitality and sympathies of the lawless element. The newcomers were broader men for the meeting, yet they did not compromise with the legions of evil. A little inoculation with a realizing sense of human brotherhood breeds wisdom as well as tolerance. They undertook no crusade. They did not harangue men on the street corners, or mount lecture platforms to expound their principles. They went about their several vocations; they acted, they lived. By the still but overpowering force of example they won their victory. It was not the victory of a day, of a week, a month, or a year, but a conquest slowly gained, by steady advance, year after year. It is not yet complete, but so near have we come to the goal that those of open vision may glimpse the shining heights.

Among these men who helped to lay the solid foundations upon which the new social structure was to rest, was Oscar Lovell Shafter, a New England lawyer of quiet ways and scholarly tastes. The true measure of a man's influence in this world rarely can be determined until it is reviewed through the perspective of years, and posterity has rendered its verdict. By this test Judge Shafter looms among the men of his time, a solitary and impressive figure, isolated by his very virtues from those who stood nearest to him in life. He was friendly and companionable, gentle and kind—yet a man of singular contradictions, shy and retiring by disposition, modest, reverent, yet who scored brilliant victories in the harsh conflict of the courts. In his fidelity to principle he would have gone triumphantly to the martyr's stake, but he could be smitten to the heart by the defection of a friend, and crushed to the earth by the loss of a little child,—a strange personality to be uprooted from New England traditions and plunged into the thick of the stormy battle of contending elements in San Francisco in the early eighteen-fifties, and to emerge tranquil, uncontaminated, untroubled.

In the course of an Admission Day address, delivered in Monterey in 1908, John F. Davis made the following pertinent remarks:

"It is indefensible that in the face of incidents in our history such as these, sons and daughters of California should be ignorant of the lives and experiences of their fathers and of those who preceded them on this Coast. The history of these experiences is part of the history of the nation, and the record of the achievements of the empire-builders of this Coast is one that inspires civic pride and a reverence for their memories."

The data from which such history should be written is scant and is fast vanishing. Much of it has been destroyed by a somewhat memorable fire that for a few days laid San Francisco low. It should be regarded as an imperative duty for all those who possess such data to bring it forward, that men of the future may know their obligations to the men of the past.

In the case of Judge Shafter reverent hands have preserved the records of his life. The most of this is written by himself, in the form of diary entries and a voluminous family correspondence. While much of this is purely personal, pervading it is an unconscious unfolding of his aims, his disposition and character, and it delineates the writer as no abstract description, written by another, ever could. Moreover, the two combine to present a series of pictures of the times in which they were written, singularly vivid and intimate, and all the more realistic because drawn unconsciously. While now and then, in the process of editing, references to people and places and topics of no general interest have been excluded, and over-much dwelling upon the great sorrows of his life has been avoided, it has not been necessary to delete a line or a word for any other cause. How much family correspondence could stand this test?

Oscar Lovell Shafter was born at Athens, Vermont, October 19, 1812. He came of a plain farmer ancestry, but the men of his blood were patriots to the core. His paternal grandfather, James Shafter, fought at Bunker Hill, Bennington and Saratoga, and for twenty-five years afterward served as a member of the Vermont Legislature. His own father, William Shafter, was a member of the Vermont Constitutional Convention of 1836, was County Judge for several years, and a member of the State Legislature. His mother, whose maiden name was Mary Lovell, a woman of superior mind and character, and described as of majestic mien, died of consumption when Oscar was a boy of fourteen, leaving her memory forever enshrined in his heart. Throughout his life he never could command his emotions when he referred to her. The father, despite his political service, led the tranquil, hardworking life of a New England farmer, cultivating a small tract of land, milking his cows, gardening, caring for his stock, and preparing his own supply of wood for winter. He had seven children, who lived to maturity, two daughters and five sons. When Oscar, the eldest, expressed a wish for a college education, he met with opposition from his father, but through his mother's persuasion he finally was permitted to begin his preparatory studies at Wilbraham Academy, Massachusetts, and he was graduated from Wesleyan University at Middletown, Connecticut, in 1834. Immediately after graduation he began his law studies in a private office in Vermont, but, dissatisfied with this manner of fitting himself for his chosen profession, he entered Harvard Law School, where he completed his law studies under Judge Story, and commenced the practice of his profession at Wilmington, Vermont, in 1836. He advanced rapidly to the front rank of his profession, was elected to the State Legislature, and against his will became the chosen candidate of the Liberty party, with which he was affiliated, for Member of Congress, Governor, and United States Senator. Years afterward, when his father was nominated to a high office, the son, then in San Francisco, wrote him jestingly, saying,

"I am inclined to think if we had among us more *facility* of character, that we might some of us come to preferment; but as it is, it is some distinction to be pursued with *nominations* to high positions."

In 1840 Mr. Shafter married Miss Sarah Riddle. Eleven children were the issue of this marriage, ten daughters and one son.

So successful was he in his New England practice, that his reputation reached the law firm of Halleck, Peachy, Billings & Park, then leading the bar of San Francisco, and overwhelmed with the labor attendant upon the litigation with which they were flooded. Through Mr. Trenor W. Park, its junior member, who had known Mr. Shafter personally in Vermont, a call was sent him to become their assistant, at a salary munificent even for those days. This offer was accepted. He came to California in 1854, and from that date until 1864 was known as the most diligent lawyer in San Francisco, as well as one of the most brilliant and successful. Nine months after his arrival the firm was dissolved, and the firm of Shafter & Park, which grew out of its disruption, soon changing to C. H. S. Williams, Shafter & Park, and later to Shafter, Park & Shafter, to Shafters, Trenor W. Park & Heydenfeldt; Shafters & Heydenfeldt; Shafters, Heydenfeldt & Goold; Shafters & Goold; and lastly to Shafters, Goold & Dwinelle, for a time commanded the leading practice of the city. In January, 1864, he took his seat as Associate Justice of the Supreme Court of California, drawing the ten years' term, holding this position until the last of December, 1867, when he resigned on account of failing health, and after vainly trying to recuperate in this country, went abroad for change of scene and climate, but failed to rally, and departed this life in Florence, Italy, January 23, 1873.

Throughout his life Judge Shafter took the deepest interest in education, and his views on this subject leaped the narrow barriers of his time and placed him abreast of the foremost educators of this our day. He felt the most intense concern regarding the mental training and character building of his own children, and supplemented the teachings of the schools to which they were sent, by original methods of his own, aimed at the development of their perceptive powers and their reasoning faculties. To this end he devised various plans for impressing great facts upon their minds. When they were little children, gathered about his knee in their old Vermont home, he improvised an orrery to illustrate the operation of our solar system, using apples, oranges and nuts, on knitting needles, to represent the various planets and the sun, thus making clear to them the causes of the varying seasons, the operation of centripetal and centrifugal forces and the force of gravitation, and incidentally explaining the meanings of latitude and longitude. And always, from this beginning, he led the young minds on to the thought of the infinite, the idea of the great universe of which our little planetary system is but an infinitesimal part,—from the finite to the infinite, from the tiny grain of sand to a comprehension, in so far as the little folks could grasp it, of the vast systems of worlds upon worlds, revolving through space, the laws controlling them, the inevitable operation of cause and effect. To him the sum of all knowledge was the comprehension of relations, the great generalizations that opened out from an understanding of the concrete object in hand. This he called the New Alphabet, the A, B and C in the education of the child. As with the vast material forces of the universe, so with the progress of the human race. Above all other studies he enjoined the reading of history upon his children, and reading on a plan which would join one epoch with another and illuminate cause and effect. Yet he always insisted that no hasty conclusions should be drawn, but that these should be approached slowly and with caution, giving due weight to every viewpoint. Even music, an art which he loved as few men do, he admonished them should be studied with strict reference to its mathematical laws. In a sense, he ever was laying before his children the mathematics of the universe. And, always, passing from the small concrete fact or substance to the vast, illimitable generalization, he drew them back to make application to life of all their learning, for all the art that could be taught, he argued, and all the science, were of the greater use in so far as they taught the highest art of all, the art of life. The everlasting goal was life itself, the alphabet the fundamentals.

There were many who, on a merely formal acquaintance, called Judge Shafter austere, distant, a man who held himself above others. He was one of the simplest of men, a democrat by nature, abhorring arrogance, never pretending to aristocracy, aspiring to none. To him a man was a man inasmuch as he developed the best that was in him, and put that best into his own life. He loved the country, rural tasks and occupations. A grove of trees which he had planted with his own hands on the outskirts of Wilmington, Vermont, the old family home, but now not far from the center of the town, after his death was bought back from the man who had acquired it, and presented to the town for a public park, as a fitting memorial to her father, by Mrs. Emma Shafter Howard, his name being chiseled on a great boulder lying among the trees.

During the whole of his busy life at the bar and on the bench, Judge Shafter's dearest ambition was to retire to his Point Reyes ranch or ranches (Punta de los Reyes ranchos), there to resume the life of a farmer. He planned to build a home at Olema, where in the Centennial year of the republic a group of the *Sequoia gigantea,* one alone of which has survived, was planted to mark the building spot he selected. The fact that his ranchos embraced the landing-place of Sir Francis Drake, the first Anglo-Saxon to place foot upon the western shore of this continent, invested the tract with deep interest to him. He loved, during his visits there, to roam about, bestowing appropriate names upon various geographical features, and the nomenclature of California has been enriched thereby. Many years before the cry "Back to the land!" went up the country over, this far-sighted patriot determined that he would do all in his power to influence his own descendants to seek this healthful field for their activities, and he acquired this fertile tract for their benefit, desiring that it should be handed down to his descendants as their home.

Two descriptions of Judge Shafter, as he appeared in his prime, furnished by disinterested writers, have been handed down. The following is an extract from San Francisco Correspondence which appeared in the *Pacific Methodist,* a Stockton paper, during the spring of 1856. "Candor," the anonymous correspondent, is supposed to have been the late Judge Shattuck.

"SAN FRANCISCO CORRESPONDENCE

"Well, as I expected when I last addressed you, I have been another week around the courts and among the lawyers. To say that I have caught none of them exercising low cunning and resorting to tricks to carry their ends, that noble minds would despise, would perhaps be saying too much, and were I to say it some of your readers might question my veracity. But this I will say, that I have found some members of the profession that fill my idea of legal examples and whose characters I think may be safely studied. I hope, however, that neither you nor your readers will suppose that those I attempt to describe are the only worthy ones or the *most* worthy of the class, but simply infer from it that it has so happened that I have become better acquainted with them than with others, and I assure you that when acquaintance will justify it, and I find better examples of the legal profession, I will point them out to you.

"Among the prominent lawyers here, one whom I will call Mr. S. holds and fills a distinguished place by common consent, but he is possessed of some qualities and peculiar traits of character that all San Franciscans do not know; qualities which are points in his character and serve to make him what he is, a man of note.

"As he is prominent, a few words of his history may be proper. He is a native of New England, I believe of the State of Vermont, commenced his academical studies with Dr. Fisk in his seminary, and removed to the Wesleyan University, Middletown, Conn., when the Doctor became President of that institution. Here he graduated with honor and soon after entered upon his professional career and became a prominent lawyer of New England. He came to California in 1854, since which time he has been assiduously and successfully attending to his professional duties. He has a brother here, likewise of some eminence, known among those who do not know the Christian name of the brothers, as 'Long-Headed S,' while the one I am depicting, in contradistinction to his brother, is sometimes called the 'Round-Headed S.'

"There is nothing in the personal appearance of Mr. S. to mark him as a man of might. He is about the usual height (less than six feet), well proportioned, with considerable rotundity of person, a full, honest face and a very sound head. His bearing is modest and unpretending, his dress plain and never costly, and his general demeanor such as would cause people meeting him in the country to imagine a plain, unpretending, but substantial and independent farmer before them. He is now in the prime of manhood and approaching the zenith of his power. Very few minds are better trained or more full of useful knowledge than his appears to be. But few lawyers, I learn, who attend to their profession laboriously, have much music in their souls. Yet he is said to be an amateur musician of no mean pretensions, if not of the first order. *Sings delightfully and plays the piano to the charm and admiration of the ladies!* I mention this quality or cultivated taste, not because a man could not be a man without it, but because it is said to be singular for a drudge in his profession to take time to cultivate it and that not many of the profession have a taste for it. Withal my observation has led me to believe that as a general rule a man who excels in music is famous in nothing else. But Mr. S. seems as profound in general knowledge as in music, and intimately acquainted with the intricacies of his profession. At the bar he seems always prepared for his case and fortified by legal authorities. Cool and collected in his thoughts, he is never caught 'napping'—never driven from his propriety by an exhibition of temper, nor in the excitement of debate and legal contest with men whose minds are not fashioned in so noble a mold as his own, does their unprofessional course for a moment betray him into forgetfulness that he is a gentleman.

"To his client he is true as steel, but faithfulness to his cause, nor love of professional success, nor desire of present fame, ever tempt him to press a point before a court that in his judgment should not be sustained, or to misstate facts to the jury, or to wrest those that do not suit him from their proper meaning, or to make more out of them than they will fairly justify. On the other hand, his object seems to be to elicit truth, and if that truth supports his cause, he can make as much of it as any other man. If plainly against him, he strives not to make a stand, but abandons his case. His manner of argument is as worthy of imitation as the principle by which he seems governed in his profession. When I say 'manner' I mean it to apply to the argument, and not to the man or his action. He does not swell and strut and look intensely wise, and put himself in an attitude of oratory, nor pronounce a long and studied preface, but begins with his subject, makes his points so prominent that they seem to 'stick out,' illustrates them happily and forcibly, fortifies them with some of the strongest authorities bearing upon them, and when he gets through he quits. No effort at display, no thought of himself and reputation, no effort to say smart or witty things, no retort upon the ill-nature of his adversary, no departure from the subject, no seeming desire to succeed in his cause, but to appearance, being strongly impressed with the truth of certain principles and absorbed in their importance, forgetful of everything else, he elucidates, fortifies and enforces those principles with as much precision and chasteness of speech, elegance of diction, logical argument and legal acumen, as one can ever expect to meet with in extemporaneous debate. Not an idle word, or a low, vulgar word, or a word not full of meaning, is used by him, and where there are many words nearly synonymous, yet with shades of difference, with remarkable facility and without a moment's hesitation, he selects and uses the one best calculated to explain his meaning with as unerring accuracy as though he had run through the entire dictionary to select the best possible word for each particular place.

"His voice is full and manly and his manner solemn and impressive; hence whenever he has a case involving important points he is eloquent without aiming at it, and seemingly without knowing it himself. An eloquence not wrought out by saying things in a pretty manner, or tragical things in a tragical manner, or great and sublime things in an ostentatious manner, or fanciful things in a theatrical manner, but lost to art by being hurried in his subject, his simple, chaste words, terse verses, forcible and often masterly reasoning, make him eloquent. It is the eloquence of ideas that hang in sparkling clusters along speech, and not the soaring on high sounding words in quest of an idea; the eloquence of the subject, and not of action or of oratorical display. I like it. Indeed I am enraptured with it. An idea shoots forth and upward, sparkling and shining like a skyrocket. I gaze at it, but while I look upon it in its upward course and ere it loses any of its force and brilliancy, another still more bright demands my admiration, and so continually there is a gem before me to work upon and admire, and all this brilliant display of rockets, seemingly without any fireworks, or any suitable apparatus to send them forth, all arising from the purity and strength of his diction, and the force and sublimity of his logic. I have seen other lawyers that would bring more books into court, or quote authorities with more facility than he without the book, but it has not been my fortune in these two weeks to meet one possessed of a more logical mind, chaste thought or stronger expression than he, nor one who seemed better to know how to apply the law and to draw proper distinction between cases, or one that was more courteous and gentlemanly and fair in his professional intercourse, or that made less pretensions to show himself off. I think him a model lawyer, or if all lawyers or a majority are like him, the prejudice which has existed against them as a class is most unjust.

"I am happy to say that I learn he is as exemplary in his private walk as in his professional life. When not engaged at his office he spends his evenings at home and gives joy to the family circle,—never visits gambling or drinking houses nor engages in blackguard or obscene conversation. He indulges in no extravagances, pays his bills punctually, attends church on Sunday, and is in every sense a good citizen. Thus have I sketched the character of one lawyer. I hope no part of it is false and extravagant. Of course I could not have personal knowledge of it all, but have tried to inform myself correctly, and believe it true to the letter.

"His mind is his own and every one may not be blessed with the same capacity, but in those traits of character which serve to ennoble him, that is, his courteous demeanor at the bar and his refusal to press a bad cause for the sake of the present victory, are qualities that all may imitate. So also the unspotted character that makes the good citizen, all may follow, and thereby add to their own character and roll away the reproach that has in some instances rested on the profession.

"I write for their benefit, not to praise Mr. S., for he needs it not, nor will he heed it. If I have interpreted him aright it will not act upon his sanity nor do him the least injury, and if by holding him up as a living example, worthy of the imitation of others in the qualities portrayed, any should be induced to follow the pattern, he will certainly excuse the liberty and I be compensated for my trouble.

"Should I have further intercourse with lawyers, and find others more worthy, or possessing qualities different from his but worthy of imitation, you shall have another sketch.

"CANDOR."

"P. S. I thought when I commenced that I should give the name of Mr. S. or I should not have alluded to his history. But the name might shock his modesty and would not much improve the pattern I have drawn. I therefore withhold it."

In an early edition of "Bench and Bar in California," by Oscar T. Shuck, a characterization less eulogistic, but keen in its analysis, appears. It reads as follows:

"Under a severe and solemn exterior was concealed in Oscar L. Shafter a great vein of humor. He was a man whom the light-hearted and gay would avoid, not knowing him, but he was as fond of a joke, and loved to tell or hear a good story, as much as anybody. However, he was certainly of a reflective, philosophical cast of mind. He was particularly familiar with English literature. In conversation he was flowing, happy, kind, genial, informed. Especially at home, at night, when he would talk about the poets, or upon any topic which he might pick up as a theme of discourse, he would be listened to with the same close attention which the professional lecturer exacts and appreciates. In the treatment of all subjects he was comprehensive. He surveyed and took in the whole theme. He was fond of philosophizing on all current questions that presented novel points. He dealt in principles; and it was from rigid application of principles and broad generalization that he arrived at his conclusions. Before a jury his style was a little stilted. In equity he was ornate, pleasing, finished, forcible. While his methods at the Bar—his investigation, his preparation, his presentation—were the admiration of his associates and of the judiciary, it must yet be recorded that his judicial career was a disappointment to the profession—that is, his judicial successes were not commensurate with his triumphs at the Bar. In January, 1864, nearly ten years after his arrival in California, he took his seat, the elect of the people, on the Supreme Bench of the State, as Associate Justice. His decisions are comprised within eleven volumes of the Reports, Volumes 24 to 34 inclusive.

"During that period Judge Shafter wrote one hundred and seventy opinions, with numerous supplementary opinions, some of them lengthy and elaborate, and several dissenting opinions.*

"His decisions, in their conclusions, have been rarely questioned. The late John W. Dwinelle declared that 'they presented constantly the ruling presence of that faculty which combines the similar and rejects the dissimilar, and descends from the general to the specific.' Judge Shafter was elected for a term of ten years, but, after serving four years, he was constrained, by a consciousness of failing powers, to resign.

"Some time after the death of Judge Shafter, the Hon. Charles K. Field, an eminent lawyer of Vermont, died in that State. In a notice of Mr. Field by a Vermont journal, allusion was made to James McM. Shafter as 'the last of that generation of men composed of the Bradleys, the Kelloggs, the Shafters and the Fields, who for more than half a century gave eminence to the Bar of Windham County, and whose names will always shine in the galaxy of Vermont's distinguished men.' "

This, coming to the eye of Mr. James McM. Shafter, in San Francisco, drew from him a fervent and affecting response, eulogizing these great barristers who claimed Vermont as their birthplace, in the course of which he said:

"Of my brother I cannot permit myself to speak—at least, not as his memory deserves. He was a scholar from his youth and a ripe and good one; not perhaps possessed of the highest and keenest perception, he had the higher possession of a solidarity of judgment and such extraordinary powers of abstraction, concentration, and generalization, as are rarely exhibited in the same person. After he had gone through his examination of a question, it was his habit to call me into his room, and go over his process and conclusion with me. Almost invariably, at least to my vision, the 'hay, wood and stubble of false doctrine' had disappeared as in fire, and nothing but the imperishable monument of truth and justice remained.

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*See list at end of book.

"If my brother and myself have done any good in our day and generation (I may speak for both), we acknowledge that we are indebted to the parents God gave us, and to the schools and moral and social influences of our early home, which taught us to live honestly, soberly and industriously, and if we could not ourselves become great, in the language of the Vermont constitution, to honor those only 'most noted for wisdom and virtue.' It has ever been our maxim that it was not necessary for us to hold office nor even to be happy, but it was necessary *to be right.*

"I have a deep abiding hope for the great future of California. I believe and hope its earth will finally cover me. But when that day comes (and you admonish me that I am the last of my generation), I know that my love for Vermont and the heart upon which it is written will fall into dust together."

On the occasion of presenting to the Supreme Court of California the memorial resolutions of the San Francisco Bar Association relative to the death of the Hon. John W. Dwinelle, another pathetic tribute to him who had gone before was paid by this devoted brother:

"My brother, an ex-Justice of this court, smitten by disease, the result of loyal, inordinate labor in his profession, died in a foreign land. His prayer for death, if it was the will of God, rather than life with mental aberration, was not answered. The cup of bitterness was commended to his lips. Unhappy paradox! outliving the life of all that was himself."

In a brief but brilliant summary of the personal characteristics of the luminaries of the early California Bar, Mr. Shuck names Judge Shafter as "a man of massive intellectual strength and unequaled forensic power in debate."

Most sensitive in his appreciation of genius, quick to recognize the spark of immortal fire which leads the chosen few to lasting fame in art, in music, in oratory, in letters, Judge Shafter valued most, in man or woman, that distribution of mental and moral equipment which he called "balance." No individual ever was more deeply stirred by the recital of heroic deeds; a beautiful picture, the soaring thought of poesy, the divine harmony of a musical composition, rejoiced his soul; but an all-round development of mind and character, ruled by reason, he counted more to be desired than excess of ability in any one direction, almost invariably accompanied by deficiencies in another. And because this was a distinguishing trait of New England's best citizenship, while in the West, and especially in the new Pacific State, the general tendency was toward splendid achievement on an erratic plan that left this finer symmetry out of consideration, he welcomed the fusion of the two elements of population, believing they would unite to breed superior types of American manhood and womanhood.

To those who loved Judge Shafter and who were able to take the measure of his endowments, the loss of such a citizen, occurring at an age when he could not be considered to have reached the zenith of his powers or his achievements, was regarded as little less than a public calamity. The personal loss was irreparable, but no great life truly dies. At this writing, nearly sixty years since he laid down his intellectual sceptre and patiently bowed his head to the terrible affliction which led him for years along the darkened way that ended only at the grave, in one week there has arisen, on the two shores of this continent, witness to his tender forethought for the coming generations and the stirring of the spirit of public service which he implanted. From lovely Wilmington amid the Vermont hills, which suddenly has leaped to the position of an important little factory town, there has come a request, from the Woman's Improvement Association, for permission to clear the ground beneath the trees he planted in the park dedicated in his name, to place seats and benches there, and fit it for the pleasant uses of the busy population and especially for the children of the community. Simultaneously, in the small village of Olema, in Marin County, California, the district school has been moved from an unlovely hollow to grounds of natural beauty, belonging to the Shafter Ranch and presented to the district by his heirs, on an eminence commanding a broad and inspiring prospect; a change which it is hoped will, by removing the school children from certain lowering influences common to many pioneer towns, give an uplift to the growing generation. When the purely material achievements of a man's life reach so far into the future, what shall be said of the moral, the spiritual and the intellectual impulses which, stirring the current of human life, go on and on, breaking only on the shores of infinity?

We pass on now to the diary records and the letters. It has been thought best to let them tell their own story, with little comment, except now and then an explanatory paragraph. People nowadays more and more are demanding to know the intimate personal character of public men. Judge Shafter was a man compounded of many elements unusual to be associated in one person, with love of home and family dominating all others, and only to be portrayed by the evidence from his own pen. Aside from the matters of general interest they contain, the letters present the remarkable spectacle of a man laboring and leading in one of the highest of the learned professions on this distant Coast, looked up to and consulted by other men of learning and distinction, who at the same time is minutely directing domestic affairs in his distant New England home, watching over the education of his young children, assisting in their government and training, and who looks out not only for the comfortable support of his family, but for their provision of fuel for the hard winters. Enjoying the balmy sunshine of San Francisco bay regions in midwinter, he is filled with solicitude lest the woodbox at home be not filled to overflowing with good, dry wood. Grappling with grave legal problems and handling in masterful fashion causes that involve the salvation or loss of fortunes for his clients, he remembers the pig, the cow and calf, the horses and colts, away back in the Vermont village, and wishes he could be there to help in the heavier work of the soap-making, an annual rite even among the well-to-do, in down-east homes sixty years ago.

During the troublous times preceding the War of the Rebellion, Mr. Shafter was an ardent Abolitionist, eloquently advocating the removal of the deep stain upon the national escutcheon placed there by Slavery. He did not merely express his sentiments upon this subject in words, but put them into deeds; aiding fugitive slaves in their escape to free Canadian soil, the Shafter home in Wilmington being one of the regular stations on the Underground Railway. If any one word might be declared to have been the motto on his banner it would be "Freedom"—the freedom of the individual, personally, mentally, spiritually; a freedom that should be irrespective of worldly standing, of material possessions, and uncumbered by any restrictions of sex.

Mr. Shafter was the father of eleven children, four of whom died in infancy; his only son, Hugh Gawn Shafter, passing away at the age of five years. A young daughter, Fanny, died in Germany, shortly after her father. His wife, Sarah Riddle Shafter, departed this life September 22, 1900. Surviving them are five daughters, Emma Shafter-Howard, Mary Laurette Shafter Orr, Sarah Maud Shafter Goodrich, Bertha Stewart Shafter and Eva Riddell Shafter.

II

FUGITIVE RECORDS OF EARLY LIFE

APART from a few schoolboy compositions, remarkable for their polished diction and elevated sentiments, the first personal record of Mr. Shafter's life is found in a certain "Commonplace Book" begun October 13, 1833, in Townshend, Vermont, when he was twenty-one years old. He was a full-fledged lawyer, but possessed, no doubt, of the ample leisure usually at the young lawyer's command, when he set down the following recollections, quaintly interesting in themselves, and invaluable to an understanding of the circumstances of his early life. In the third paragraph of the extract printed below, following a very simple view of a young man's meditations and preceding the homely account of the home scenes which preceded his first flight out into the world, there occurs an outburst of that eloquence that characterized his public speeches in after life, and which led friends and associates to regard him at times as a man inspired.

REMINISCENCES OF A GRADUATE

I find that the recollections of my early life are gradually growing less and less distinct, as time passes on. I regret this, but it is the result of the operation of natural laws. I would gladly do something to preserve the few, half-defaced impressions that remain. It can be done. I will, and that, too, with all possible despatch, commence transferring them to paper. When I have them safely delineated in my Commonplace Book, I can at any moment, by a reference to its pages, recall the record of the past to mind. As a preliminary, however, to this step, I will overhaul my old letters, and present recollections may be rendered more vivid by this means, perhaps, and some events of interest, now forgotten, may be recalled. Such were my reflections and such my determination as I sat one mild evening in August, 1835, at the door of my office in my large armchair enjoying the coolness of the vesper breeze. I proceeded immediately and put my resolution in practice. Striking a light by a Lucifer match, I went into a back room (that common receptacle for all the lumber of an office) and took from an old cobweb-covered trunk a large bundle of letters tied up with a piece of white tape. Returning to the front room, I hauled my chair up to the center table, and clearing away the law books, blanks and half-finished briefs with which it was encumbered, unbound the package, unfolded the top one, and commenced reading. . . .

The oil burned low in the half-extinguished lamp as I finished the last letter in the pile. My heart was depressed with the weight of indescribable emotions. I felt as though I had been wandering at midnight among tombs, deciphering by the pale moonlight the half-defaced epitaphs of a bygone generation which I had known and of which I was the sole survivor. As I anticipated, the faded colors of the portraiture of the past were renewed, and in the freshness of life reappeared in distinct and harmonious combination on the mental canvas. As I perused and reopened these cherished records of early friendships, my mind, arrested by a reference to some transaction in which I had participated, to some instructor whose kindness I had experienced or from whose tyranny I had suffered, or by an allusion to the name or fortunes of some early associate or friend, forgetful of aught beside, would give itself up to the control of its thronging associations. The tide of thought, checked in its onward course, would flow unbidden back through the dusty and forgotten channels of the past, and, borne as it were upon its bosom, through all the windings and sinuosities of its ancient current, I, in a few unnumbered moments, would retrace the lengthened voyage of life, revisit scenes endeared by hallowed recollections, renew associations which Death had broken up or distance suspended.

Thought is imperishable! No impression, however slight, once made upon the mind can ever afterward be effaced. Memorials graven upon sculptured marble may be worn away by an imperceptible abrasion, the records of desolation and ruin written upon the earth's surface by the volcano and the earthquake, the fierce chronicles of human guilt and of the Almighty justice, effaced by other changes, may bear no witness to succeeding generations of the retribution they were designed to commemorate. But the soul unerringly retains all, even its faintest impressions, in all places, under all circumstances and in all time.

Immortal in itself, its most transient reflections, its slightest emotions, its briefest and least important speculations, are all of them indelibly retained. But my intellects have gone a-wool gathering. 'Tis time to begin the history of events I design to chronicle.

'Twas in the spring of 1825. I think in the month of May (the day I am unable to name), but 't was a very pleasant day, for I recollect that my poor sick mother had requested that the windows might be raised so that she might inhale the balmy air of that ever-welcome season. In compliance with my mother's request, I took a seat beside the bed on which she was reclining. She proceeded immediately to inform me that father had consented that I should be sent to the Wesleyan Academy at Wilbraham, Mass. It had ever been my most earnest wish to obtain an education, a wish that I formed when quite young, and which, at the period of which I am speaking, had ripened into determination. I was at this time in my thirteenth year. My father, a kind, sensible man, but very practical in all his views, had been averse to my pursuing the bent of my inclinations. But my own resolution to do nothing else, of which he became aware, together with the active influence of my ever dear mother, at length prevailed upon him and withdrew his opposition. My mother now, with a smiling face, made known to me his favorable intentions.

"But, mother, when am I going?"

"As soon as we can get your things ready," she replied. "And now what do you think you shall want?"

"Well, I don't know, indeed. A suit for every day, and another for Sundays."

"Talking about Sundays, Oscar, let me remind you to remember the Sabbath Day and keep it holy. Remember the injunction of your mother. Never bring upon yourself the reproach of being a breaker of the Lord's Day. Confined to my room, cut off as it were from communication with the world, every day afflicted by the same unvaried suffering, yet the painful monotony of my existence is ever relieved by the holy influences of the Sabbath. Remember the Lord's Day, my child, to keep it holy!"

I promised, and the subject of my outfit was renewed. After ascertaining the extent of my wardrobe, it was at length settled as to how much it would be necessary to augment it. 'T was furthermore arranged that I should go the next morning in search of Milly Walker, a "woman tailor," and should I be so fortunate as to find her, bring her home with me to make up my wardrobe under the supervision of my mother.

Milly Walker, the itinerant tailoress of the parish, was a prim, demure maiden of five and thirty, very celebrated for her devout observance of fast days, Saturday nights, and for her unrivaled skill in cutting down cast-off coats and unbreeched breeches of fathers and elder brothers, to suit the less fastidious tastes and smaller limbs of the rising generation. Having served an apprenticeship of six months with a tailor in a neighboring village, Milly, provided with a square rule, goose, shears and other implements of her calling, returned home and immediately began business on her own account at the age of two and twenty. For five years she went from house to house, working for twenty-five cents per day, which *day,* by the way, for half the year, was understood by Milly and her provident employers not to expire till nine o'clock at night. Milly, too, was a wonderful small eater, and without waiting till the family in whose service she happened to be engaged had gratified their more substantial appetites, she would beg "to be excused." Milly prided herself on her gentility. 'T was her only weakness. Let it be forgotten; and having obtained the willing consent of her approving hostess, she would at once resume the work that had been but for a moment suspended. With these occasional interruptions arising from the necessities of nature, Milly plied her needle with the most exemplary industry. Hardly would she raise her eyes from her work during the livelong day, though she would often converse in a meek, subdued tone, with the mistress of the house or with her grown-up daughters, about the goodness of God, the lamentable depravity of the human heart, and the great importance of seeking the salvation of the soul before it should be everlastingly too late! She was a devout and holy maiden. The minister ever found in her a warm admirer, a ready coadjutor in all his plans for promoting the spiritual welfare of the people. The suit of black which the young men and women (the "lambs of his flock") annually presented to him, was ever, at his special request, made by the hands of the discreet and faithful Milly.

The habit of constant application to her business which I have ascribed to Milly was a great excellence in the eyes of her observing and calculating employers, and was the main reason why she was preferred to Seraphine Williams, her rival in business in the town where we resided. After having gone for five years from house to house as an itinerant, Milly concluded to open a shop; but she relied too much on her reputation, as the event proved. As Milly had rent and board to pay, she necessarily advanced her prices, a diminution of business and profits followed, and she was again under the necessity of going to those who would not come to her. From that period up to the time that I went in search of her she prosecuted her trade in the same primitive manner, and never was she known to murmur or complain at the bad success which attended her experiment.

The first glimpse we have of the family life in the home founded by the successful Vermont attorney is presented in a letter from Oscar L. Shafter to his sister Laurette (Mrs. Wealthy S. Ransom, Galesburg, Michigan):

WILMINGTON, Vt., May 6, 1850.

MY DEAR SISTER:

I have just returned from a long and laborious session of our County Court, and am now on this rainy yet still blessed Sabbath enjoying the endearments of my own family, the quiet of my own home. After the periodical seasons of severe intellectual drudgery incident to my professional life are passed, I find that the brain becomes dozy and prone to dreams,—but the vitality which ebbs from the head floods invariably to the heart, and it is so now, in a greater degree than ever before. To this I can assign no other cause than your late letter to father, which I brought home with me and which I and Sarah have just finished reading in the hearing of our children. Emma, now in her eighth summer, understood and enjoyed it rarely. Mary (Laurette), who is half as old, listened very attentively and laughed repeatedly as though she was tickled, but on being asked the cause of her merriment, uniformly broke down in her attempts to give it. Hugh, who is now in his eleventh month, lay on his back in his mother's lap, with heels high in air, and if he didn't understand the letter, he at least added somewhat to the interest of the occasion. He is just the boy that I have been praying for these eight years past: straight in the back, deep in the chest, heavy in what he sits on, clear and full in his eye of blue-grey, with a head of the size of a half-grown pumpkin, but so formed and mounted as not to "ring hollow" under even the highest tests of phrenology. His hair is nut brown, like that of the uncle from whom he takes his name, and he is in short one of the best speciments of the gender that I have ever seen.

By the way, what magic there is in names! "Hugh" is a word that used to be uttered in our hearing by our mother, dead long years ago. We uttered it ourselves as far back as we can either of us well remember. It was one of the *home* words in a family now disbanded and scattered. It is one of the oldest events that memory retains, that a brother answered to the name. Well, years have elapsed since I uttered it in his hearing and he answered to it in mine. In the meantime I have founded a hearth of my own and have peopled it with wife and children. But they were all strangers to the old places—the old names—and the thousand and one old associations. The Michigander was often talked of and talked about in our new circle, but neither he nor any one who bore his name had ever been talked *to* there. It had never been yelled out there by merry voices to one who owned the name—the responsive yell had not been heard there,—until a few short months since I applied the name *to* a little ten-pound immortal, in the hearing of my wife and children, as my father had done before me, to my babe's uncle, in the hearing of *his* wife, our mother, and of you and me, his children. And then, with a heart swelling with many old memories, I registered it in the Book. But now there is no name that I pronounce oftener than "Hugh"—none that I hear uttered half so often. And latterly it is answered to, and with a power of lungs that makes all ring again as of old. And I find that I am falling into a kind of illusion by the operation of this simple cause. The present, though it is now well nigh high noon with me, seems like my morning life, and the past, which I have long been accustomed to look back upon, I find myself looking forward to sometimes, as though it were a part of my future, giving promise that all my happier experiences would be reenjoyed.

You complain that I have not written to you oftener. I know not what apology to make. Perhaps it's because I hear from you so often and so fully. I think indeed that that is the principal if not the only cause of my neglect. I should have written you when our little Alice died—(she was three and a half years old) but I *could not do it*. It was only a few weeks since that I could so far possess myself as to set her death over against her life in my family Bible. Emma remembers her. The other day I was reading aloud that beautiful poem of Mrs. Hemans', "Oh call my brother back to me," but substituted "sister" for "brother" wherever the latter word occurred. I had got about half through it when she began to cry as though her heart would break. I knew what it meant.

May God in his mercy spare to you your children!

We came very near losing Emma this spring. She had a very sudden and violent attack of lung fever. I sent for Edminston; he saved her, and that was all. At the time Alice died, Mary would have gone, too, but for him.

I built me a house last summer on my farm of twenty-five acres, and am spending quite a portion of my earnings, as I have been for some years past, in improving and adorning, though as to the last, I have but just commenced upon that. My professional business is good, and has grown more and more lucrative every year since I came to this place. At present I have all, and more even, than I can attend to personally. I mean to come out and see you and Hugh and all of yours and his before many years more. I would make this visit this summer did my engagements permit. When I do go I shall take Sarah (that is to say my wife) along with me. She has set her foot down that she "will see a railroad and *ride* on it, too, in a *car*" before she is much older. Mary is well and so are her children and her Doctor Edminster. Willy, her boy, physically is a very fine little fellow, but has got a will as big as a woodchuck, and though occasionally threatened by those who own him, cannot be said to be governed by either of them. Their little girl is a very pretty babe and is getting on finely.

At Townshend things are doing very well. Father and Newt are engaged largely in planting the garden, building a rod of wall, setting out a quince tree, feeding the pig and suckling the calf. One stands at the head and the other at the tail, if nothing more is to be done than to pick up a chip. Father enjoys himself finely, particularly when any of his young ones are about. His thoughts, years ago, you know, used to run mainly on "pints of doctrine," but now his mind is mainly exercised upon politics. He keeps himself in fighting trim all the while by frequent sparring with Governor Ranney, and an occasional bay'net charge into the bowels of Deacon Salisbury, so that in great emergencies like a county or State convention he is ready to unlimber at short notice with great power. He is enjoying a green, respectable and happy old age. He is as vigorous in body, mind and stomach, for anything I can see, as ever.

* * * * * * * *

Tell Hugh that I have a very productive farm—a noble yoke of four-year-old oxen that would do his eyes good to see—a cow that makes 400 pounds of superb butter in a year—a colt of my own raising now three years old, worth $200—a blood mare of great speed and power that is now with foal by the best horse in New England—a pair of Suffolk pigs for which I paid $25 at three months old, and a yardful of blooded hens;—but, over and above all, a boy at last, perfect in structure, rigged out with most remarkable appointments, hopeful in promise; and that we call him Hugh, in memory of his uncle and of the old times, places and thoughts with which his uncle is in my mind identified.

I saw Doctor Ransom at Newfane, and heard of him afterwards at Townshend. He says there is no section of the country that has made greater progress in the last twenty years than Vermont. The advance in health, civilization and refinement has indeed been very great, and the end is not yet.

* * * * * * * *

Your aff. brother,

O. L. Shafter.

In 1852 Mr. Shafter wrote the first letter addressed to one of his children—the beginning of a family correspondence faithfully carried on during each period of separation, and to which we are to be indebted not only for vivid pictures of the life about him, but for its unconscious portrayal of a wonderful human personality. From the text of the letter following, evidently it was written while he was in attendance upon the county court, overwhelming his opponents with a vocabulary somewhat noted for its elegance, and convincing the Bench by the force of his irresistible logic. Observe, now, the instant descent to simple language suited to his children's understanding, and the homely, lovable affairs of home and daily life, with, once in a while, a large word thrown in to whet juvenile curiosity, or to provoke an inquiry into its meaning:

(Oscar L. Shafter to his daughter Emma.)

NEWFANE, Oct. 2, 1852.

MY DEAR DAUGHTER:

This is the first letter, I believe, that I have ever written to you, but considering the character of my business, and the frequent and somewhat protracted absences from home which it occasions, it in all probability, if my life and yours are spared, will not be the last. I have just received your letter of yesterday's date; it is the first you have ever written me; but I hope a series will follow, relieving the exhaustion of professional labor, and strengthening a father's heart with the welcome proofs of his daughter's love.

I hope that little Maude will be able to walk when I return. Kiss her for her father, to encourage her in her efforts.

Tell your little brother from his father, that he will probably not see me coming up the walk for more than a week, but I shall come home as soon as the judges here tell me I can go. He must be a good boy, be kind to his sisters, and mind his mother, drink his milk without crying, and act like a *man*, so far as a small boy can be expected to. You must all of you jump every day, except little Maude, and hold your shoulders back whether you stand or sit. Tell Mary that she must read out of some book that she can understand, every day; if she does not, she will, I am afraid, forget all that she learned at school last summer. You are the oldest of the children and must be careful to set a good example before them. You must be kind to them and try to do them all the good you can. I hope you are making proficiency in your music, but remember that, after all, reading, writing and arithmetic and other branches of solid and useful learning are more important than the piano.

It is time that you commenced a systematic course of reading. I have bought a large library for the benefit of my children, and when I come I will select such books for you as I think it will be best for you to read.

Tell your dear mother that I am very much obliged to her for the note she added to your letter. Tell her that I have had a hard week of it, but my appetite is good, and that I sleep well, and respect and love her as wife and my children's mother.

* * * * * * * *

You must keep this, my first letter to you, for it will interest you perhaps in after life, when your father is no longer with you. The few mementoes of my mother that I have in my possession are more dear to me than rubies.

Be a good girl and write to me next week some time. Tell all the news, and particularly about the sick.

Your affectionate father,

O. L. Shafter.

One year later he writes from the State capital, where he was serving as a member of the Legislature. Enthusiastic friends were tendering him an unsought distinction, toward which his attitude frankly is declared in this confidential letter to his wife:

Oscar L. Shafter to his Wife.

Montpelier, Vt., Oct. 23, 1853.

Dear Sarah:

I have received Emma's letter and am glad to hear that you are all well. Kiss the dear ones all round and tell them that their father bears their names and looks evermore in his heart of hearts.

To-day is Sunday. The Legislature adjourned over on Saturday till nine o'clock on Tuesday. Not having time to go and return in the interval, I concluded not to leave for home now, but shall on Friday next if the adjournment is sufficiently long to allow of it. The day hangs very heavily on my hands and the session also. My old habits are violently broken in upon by the kind of life I am compelled to lead and by the subjects that claim my attention. I am free to say that I do not like it.

They are still talking about me for United States Senator, but what will be the upshot of it remains to be determined. There are many reasons I suppose why I ought to aspire to so distinguished an honor, but to tell the plain truth I should prefer not to be elected. An election would involve a violent change, not to say a permanent one in the plan of life I have long since marked out for myself, and the advantages to result from the change are remote and precarious. The whole matter will probably be determined within a week.

Yours affectionately,

O. L. SHAFTER.

III

THE CALL TO CALIFORNIA

MR. SHAFTER'S call to San Francisco, to join the great law firm of Halleck, Peachy, Billings & Park, in the capacity of an assistant, came in the year 1854. Although he had disdained high political preference, the monetary consideration offered (a salary of $10,000 per year), was too generous for a thrifty New Englander to ignore. It was for the sake of his family, and because this offered the chance to put them forever beyond the reach of want, through one year's work, that he closed with this engagement, which was to carry him so far away. The whole world is closely linked together in these days, but in the early eighteen-fifties, to reach California, by land or sea, involved a voyage far more perilous and uncertain, and almost as long in point of time, as it now requires to encircle the globe. In passing, it may be observed that all his life Mr. Shafter suffered recurrently from a serious form of heart trouble, which he apprehended might end his life suddenly, and this naturally must have stimulated his desire to leave ample provision for wife and children. He had no greed for money, as such, no wish to accumulate riches, and when success in his profession brought him considerable wealth in after days, he gave with an open hand.

Loving his native State as he did, and with his heart bound up in his little family, it was a tragical ordeal for him to tear himself away from all that was dear to him, to dwell among strangers and to meet the uncertainties of life in a faraway land.

From Diary of O. L. Shafter.

(Note: This entry is made at Wilmington, Vt.)

Oct. 15, 1854. This is my last night with my family, my last at home. My trunk is packed, all the little details of preparation are over, my children have said their "good night," not joyously as usual, but with sobs and tears. The babe sleeps unconscious of the common grief. For one night more I sleep beneath the roof which I have reared and which covers those whose lives are mine. With the morning light comes the separation of me from mine. Though protracted, I hope in the mercy of God that it may not be final. My heart is burdened with a great woe, for my wife and little ones are inexpressibly dear to me, and the thoughts with which it struggles are better borne unuttered and in silence. As I was arranging my trunk, Emma slipt into it a piece of perforated paper with the following inscription wrought upon it by her own little hands—"Hope for the best, dear Father. From Emma."

Thank you my daughter for the monition. The sentiment shall be my motto in the discouragements, the dangers, the rivalries and strifes in which my professional engagements will involve me.

Oscar L. Shafter to his Wife.

New York, Oct. 19, 1854.

Dear Sarah:

I left Brattleboro on Monday at 4 o'clock P. M., arrived at New Haven at 9 o'clock and staid there over night; left in the morning and arrived here at 2 o'clock P. M. I am stopping with Thomas. I sail to-morrow for Panama in the steamship North Star. She is one of the staunchest and finest sea-going steamers afloat. She was built by Cornelius Vanderbilt and is the same in which he made his recent pleasure trip to Europe, an affair about which so much was said in the

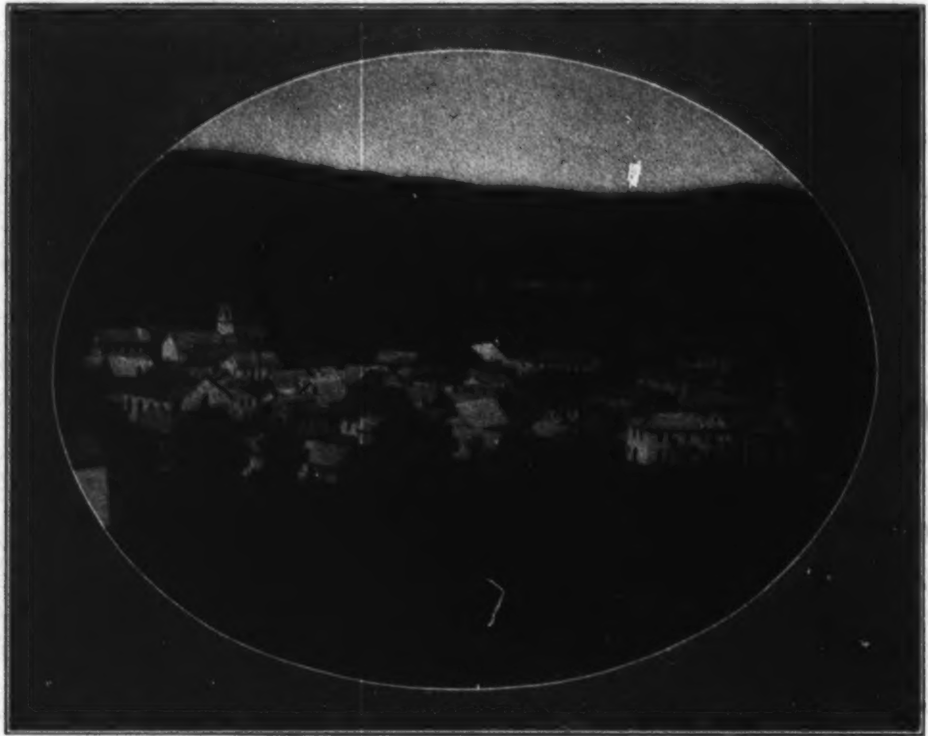

Plate III. Wilmington, Vermont. Shafter home and grove on the high ground in the middle distance

newspapers. Young Howe came on last night and has taken passage in the same ship with me. The indications are that we shall have a safe and pleasant voyage. I have tried to get a map of our route to send to you but cannot find one containing the whole of it out[side] of an entire Atlas. I have however found a map of the route across the Isthmus and send it to you herewith. We land at Aspinwall and go by Railroad 38 miles and then by mules 11 miles to Panama on the Pacific, thence by the steamer Golden Age to San Francisco. By the aid of a common school atlas you will be able to trace our course from the beginning to the close of the voyage without difficulty.

Lydia asked me to-day at dinner "if I didn't hate to leave?" I replied to her that *I had left already*. And it was there that all my leave-taking was accomplished when I parted with you,—with my children—and my home. God bless you all and preserve you until we meet again! We must cultivate a resigned and cheerful habit of mind and thought. There are two sides to almost everything—the light and the dark. True philosophy requires that the former should be contemplated and dwelt upon rather than the latter, for though it be true that this may not change the current of events, yet it is also true that it promotes our own contentment and happiness for the time being. My own *purpose* is not to become despondent and despairing but to be and remain hopeful, resolute and believing. Will you not, dear Sarah, do the same?

A new arrangement has been made in the steamboat lines to California. A steamer, and as I suppose, a mail, leaves weekly instead of once a fortnight as heretofore. There will be a mail leave here on the 29th inst., and by that mail either you or Emma or both must write. I shall receive the letter in one week after my arrival in California.

I send herewith a statement of the funds in my hands. This statement you may put into the bundle of papers I left with you. Remember me to Grandpa and Grandma and give a father's love to all the dear children.

From your affectionate husband,

O. L. S.

Oscar L. Shafter to his Wife.

Oct. 24, 1854. At Sea.

Dear Sarah:

According to arrangement we left New York Friday the 20th at 2 o'clock P. M. precisely. Tom, his wife, Miss Green and Tom's boys, and Mr. Fitch, came down to the wharf to see us off. There were about 600 passengers found aboard as the signal was given for unmooring. Many a touching separation took place on the crowded deck of the steamer that day. But there was short time given for leave-taking. My own was acted rather than spoken, I fear. I undertook to send a verbal message by Lydia to you, but it was so far stifled in the utterance that I doubt if she understood me.

But the vessel is unmoored, the signal guns are fired, and the stately craft moves slowly from the dock. Thousands are collected on the wharves. Words of good cheer are uttered by friend to friend and handkerchiefs are waving final adieus. My friends stood by appointment together on the end of the wharf, and I mounted my hat on my cane and in that way kept up a welcome communication till it was finally interrupted by the distance. The weather was most delightful and the auguries all favorable for a speedy and prosperous voyage. We passed, as you will see by referring to the map, between Staten and Long Island. The Channel is there about one mile wide and is defended by Fort Hamilton on Long Island and Fort La Fayette on Staten Island; both literally bristle with cannon. It would be very difficult for a hostile fleet to enter the harbor of New York by that channel. The chances are that it would be destroyed by the tremendous crossfire of those fortresses. We took a pilot aboard at New York who had command of the ship till we were clear of the channel and well out at sea. He left us about 5 o'clock in a small boat that came off from the land, and with his departure all visible relations between us and the shore were ended.

I took a look at the compass and found that the ship was put upon an almost due south course, and that course she has steadily kept so far, and will until we reach Aspinwall. You will see that this course will take us between the Islands of Cuba and San Domingo, through what is called the "Windward Pass." During the night of the 20th the wind began to freshen from the northeast, and in the morning, on coming on deck, I found the ship under canvas and going at a great rate through the water by the combined power of wind and steam. The sea was very rough, and the vessel rolled and pitched badly. A large proportion of the passengers were afflicted with seasickness. I was not exempt from it, and what is more I didn't expect to be. I cast up my accounts in about an hour after coming on deck, ate nothing at all during the day, staid in my berth most of the time flat on my back with nothing to do but listen to the jar of the machinery, the creaking of the bulkheads and the roar of waters. At night I stript and went supperless to bed. Slept well during the night, but in the morning on coming on deck found that the wind had increased during the night and the tribulation of the waters was very considerably augmented. We were crossing the Gulf Stream, which on our line of travel was some 40 miles wide. The current is about 3 miles an hour towards the northeast, and being opposed by a strong northeast wind, made the sea broken and exceedingly rough.

To-day is the 22nd—the Sabbath. We are now about in the latitude of Charleston, South Carolina, and about 400 miles from land. The seasickness begins to leave me; my appetite begins to return. At noon I dined on a sweet potato and salt; tried to grease it with a little butter, but it was too rancid for any civilized use except soap-boiling, so gave it up. Judging from appearances, the cargo of butter will not be materially lightened during the voyage. Slept well during the night, though the heat below deck begins to be somewhat oppressive.

Monday morning: We are well out of the Gulf Stream. The wind still blows sharply from the northeast; the ship rolls from side to side as it ascends and descends the mighty waves. She is still under sail and is rapidly approaching her port of destination. With me all seasickness is at an end. Many others are not as fortunate. I think it would have followed me up much longer and more seriously but for my nautical experience in early life. On coming on deck this morning I noticed a passenger, a German, chained to a stanchion. They said that he was delirious during the night and made proclamation that he was going to Panama by land. He was a young man, apparently about 25 years old, and looked quite respectable. They unchained him and took him down into the steerage. I soon after heard that he had been living on the Isthmus and was taken down with the Chagres fever. Last night he died, about dark. I slept up on deck, and at midnight the poor German was borne past us in silence by the crew, and without a tear or a prayer was launched from the stern of the vessel into the deep! He had $500 in money and two heavy trunks which go into the possession of the purser of the ship. But I doubt not there are hearts that will mourn and eyes that will weep for him, who sleeps his last sleep on the bosom of the Ocean! A father, a mother, a brother or a sister perhaps await the fearful tidings, to be overwhelmed with anguish when it meets them. God be with them wherever they are and sustain them in their day of trial!

The understanding is that this morning, Tuesday the 24th, we are a little to the South of Cape Sable, the southernmost land in Florida, and headed directly for the Windward Pass between Cuba and St. Domingo. The wind is still in the northeast, but the sea is comparatively calm. The vessel rides more steadily than she has done since we left New York. It has grown quite warm. The sun is higher up than it is with us in midsummer, but the steady fresh breeze from the northern ocean relieves the air of all sultriness. I have donned my summer rig and feel quite comfortable. I bought a portable writing desk in New York, large enough to hold my diary, one-half dozen quires of paper, inkstand, wafers, etc., and here I am on the shady side of the deck, seated like a Turk flat on the deck, writing to you on my new desk. It is just the thing. I have written so far without stopping, but feeling a little weary of my somewhat constrained posture, I don't know how much longer I shall keep on. By the way, I have already remarked that I slept on deck last night, and a glorious night's rest I made of it, too, though I slept but very little. Howe of Townshend lay on one side of me and a New Yorker on the other; all were flat on our backs; the air was as mild and balmy as a Northern June; no dew fell; the heavens were unclouded. A circle of Germans, accompanied by a flageolet, were singing the songs of their fatherland. Friends were sitting or standing in groups about the deck, talking in suppressed voices or silently communing with their own hearts and with the great sublimities of the heavens and the sea. The North Star and the constellation of the Great Dipper that revolves around it, are well down to the water, and the luminaries of another firmament are rising in the South. The vessel speeds on. The groups break up, one by one, and those that formed them retire to their berths, or, like me, camp on deck beneath the stars. The watch is set, and now all are asleep but me. I cannot sleep. I do not desire it. My spirit finds repose in contemplating what is above me and beneath me and around, and in that repose the body too finds all needful rest. My thoughts are with you and our little ones, and I have great joy in the reflection that your and their thoughts are with me as I roam. So I dream on, fancy on or think on till my thoughts are diverted from me and mine by the midnight obsequies of the dead.

Quite a proportion of the passengers are women and children, and the larger proportion of the male passengers is made up of old Californians who are going back with their families. There are children of all sorts and sizes on board, and their gambols and the sound of their merry voices give much relief to whatever there may be of tedium in the voyage. There has been a good deal of seasickness among them, and some of the cases have been quite distressing. There is one little boy about seven years old who has been afflicted with the malady ever since we left New York, and with great severity. He has eaten nothing for days now, and is greatly debilitated. This afternoon they have brought him on deck and have made him a bed there, and the little fellow seems greatly to enjoy the soft tropical breeze that fans him as he reposes under the awning. His parents are seated beside him with faces filled with anxious solicitude.

There are wives aboard who are going unattended and alone to join their husbands in California. Some of them have children with them, and now that the seasickness is over with they seem to be as undaunted and chipper as the rest. There are three Catholic nuns aboard, and two Catholic priests. The nuns are called "Sisters of Charity," the order with which Evangeline connected herself after the conclusion of her wanderings, as you will remember. The passengers are mostly young; scarcely one is past middle age. They are well dressed, and all demean themselves with propriety. I have seen no disorder as yet on board. One of our voyagers was also a passenger aboard the ill-fated *Arctic*. He is an Englishman, and escaped in the boat commanded by Dorian. I have become acquainted with him, and he has given me a full and circumstantial account of that heartrending disaster.

Wednesday morning, Oct. 25. Yesterday in the afternoon the wind shifted to the southeast, and the change was so far adverse that all sail was immediately taken in. Last night I slept on deck again with Howe on my left and a long-legged Hoosier on my right; he had no blanket, and I gave him the benefit of half my shawl, but it was so warm that there was little occasion for covering of any kind. The principal objection to sleeping on deck is that the seamen rout you too early in the morning for the purpose of washing down the decks. During the night the wind blew with considerable force from the southeast, but not with such violence as to cause any alarm. This morning we are rapidly approaching the Windward Pass, and the second mate thinks we shall see one of the small islands that lies in the pass before a great while. The morning is beautiful; just enough of haze in the atmosphere to temper the heat of the sun, and the gentle breeze that ruffles without agitating the face of the sea, does not hinder the ship in its progress. The bell has just rung to rouse the passengers from their slumbers. Many, however, have anticipated the summons, and gentlemen and ladies are traversing the deck, enjoying the scene and a morning walk.

We have breakfasted. I filled myself with liver and sauce and a modicum of unbuttered bread. We have very fine coffee, and I have found it advisable to consume about four strong cups of it a day. Tom gave me a bottle of the best brandy to be found in N. Y., but I find that the strong, rich coffee hits my infirmities better than the brandy. I have, however, turned doctor for others, and have prescribed the brandy in a number of instances and with good results.

Soon after breakfast we saw land to the East. It was a small island called Maguana, lying in the Windward Pass between Cuba and San Domingo, and belonging to Great Britain. We could see the tops of a coast range of mountains rising apparently about 100 feet above the water. The island is 25 miles distant. We have now accomplished about one-half the distance to Aspinwall from New York. The little boy of whom I have before spoken is on deck again to-day, and the doctor says he is affected with intermittent fever. He is looking badly now,—almost deathly. It would indeed be a sad thing for the child's parents should he die, for he is all they have, and it would be doubly mournful should he die at sea, with the inevitable consequence of a watery grave.

I am going to keep on writing until we get to Aspinwall, and then I shall seal up my multitudinous scribblings and dispatch them to you.

We have dined. At 4 o'clock P. M. we are passing the Island of Great Iguana to the East; it is one of the islands where salt is manufactured for exportation. We can see the white walls of the salt works as we sail at a distance of 10 miles from the shore, and there are quite a number of ships lying at the wharves and receiving their cargoes. This island also belongs to Great Britain and is reckoned as one of the Bahama chain. Have Emma look out all the places named, on the map, and trace the ship's course from New York to Aspinwall with as much precision as possible.

It is now night again. The wind has so far changed that the ship has been put again under canvas. The heavens are partially covered with clouds, but through clearly defined gaps and rifts in them we can see the moon, now in her first quarter, and the attendant stars in the deep blue beyond. We are within the tropics, and the rainy season is about commencing; we have indeed had two or three light showers this afternoon, and the indications are that there will be more rain before morning, but just now everything is fair, and invites the multitudes on these peopled decks to enjoyment. There are some very fine singers aboard, of whom, however, I am not one; but still a half dozen of us are singing, in the center of a large circle, songs of the sea and of the land, but more especially of the homes that we have left behind us. The demand among the hearers is greatest for these songs, and the governing inclination among the singers is to sing them. Thus with song and jest and tale and sigh, and maybe now and then with an unbidden tear, night wears apace. It is now 10 o'clock. The mate has just pointed out to me the Island of Cuba to the west. I can see nothing however but a low black bank of cloud apparently skirting the horizon. To-morrow it will be out of sight.

It is now 11 o'clock. The deck is partially deserted. I have brought up my mattress and pillow and with my friends have again bivouacked on the deck. About 2 in the morning (Thursday, Oct. 26), we were awakened by the rain. Grabbing our mattresses and duds we rushed with them under the hurricane deck,—and camping anew, watched the progress of a tropical storm. The lightning was all but continuous, and more vivid than any I ever witnessed before, and the water came down as though all the flood gates above had been hoisted. But the storm was soon over, and quiet and repose again settled upon the bosom of the moonlit sea.

After breakfast, where, by the way, as at all other meals, a man has to all but fight for his living, on coming on deck I found we were in full view of the island of San Domingo. It is the second of the West Indies in size, and of commercial and political importance. That part of it which we can see is but a pile of mountains rising in height as they recede from the shore; the more distant ones are well up in the heavens.

A gentleman from New Granada informs me that the most celebrated spot for bull fights in the West Indies is at a point nearly opposite to where we are now sailing. The history of San Domingo is very interesting and instructive.

It is a mild, hazy day; now and then we have a dash of fine, dewy, sunshiny rain—such as we have at home when we say "the devil is licking his wife." Such weather occurs ordinarily with us in the month of April.

About 5 o'clock this afternoon we were struck with what sailors call a "squall," wind accompanied with rain, and the sea was soon in the wildest commotion.

Friday morning, Oct 27. The wind blew violently all night, the rain poured down in torrents, and the ship bounded and pitched about like an unbroken colt.

Saturday morning, Oct. 28. The storm continued all day yesterday, and everything and everybody on board was made most uncomfortable. During the day a large sea bird called a "Booby" came on board, like the prairie winds spoken of in Evangeline, weary as I suppose with travel. He measured about 4 feet between the tips of his wings, and was as ferocious as an old gander. After resting his wings and thoroughly drying and oiling his plumage he left us without even saying "Good bye," and steered his course for his home on some one of the now distant islands. This morning the weather is quite beyond criticism; nothing could be finer. The sea is as calm as an inland lake, and as we are now but 180 miles from Aspinwall, the prospect of a speedy conclusion to the first stage of our passage and the cheering promise of the morning that the day will be like itself have put the passengers into the best of humors. We shall probably arrive at Aspinwall about 9 o'clock in the evening. The next morning we take the cars to the "Summit" marked on the back of the card I sent you from New York, and from there proceed immediately by mules to Panama.

I am compelled now to conclude this somewhat lengthened letter and put it into the postoffice connected with the ship. It will be carried to New York by this vessel on its return trip to that city and you will doubtless receive it before my arrival in California. You will not hear from me again until I reach San Francisco. I shall then send you a long account, I presume, of adventures by field and flood. I take it for granted that the steamer which left New York yesterday bears with it a letter from you or Emma; if so it will reach San Francisco about a week after my own arrival. Emma must keep a full record in her diary of everything that occurs at home, and as it occurs from day to day, and in that way she will never lack material for a long letter. How are Mary, Hugh, the baby, and all of you? A question that I often ask myself and one which your frequent letters will often answer. You and the children are in all my plans and in all my thoughts, and will be till my days are numbered and finished.

From your affectionate husband,

O. L. Shafter.

At Sea, Nov. 1, 1854.

My Dear Wife:

We arrived at Aspinwall at 1 o'clock in the morning on Sunday the 29th day of October, and at daylight the work of disembarkation commenced. After seeing my own luggage ashore I went ashore myself, and was at once struck, as indeed I had been before leaving the ship, with the novelty of everything around me. Aspinwall is a new town that has sprung into being in consequence of the discovery of gold in California. It is built mainly on piles driven into the mud (the mode in which the piers were built in Lake Michigan, as you will recollect), and under the houses and around them the water of the sea has free passage. The foot and carriage ways are to some extent built in the same manner. The houses, most of them, are built in the most hasty and unsubstantial manner imaginable, and the business of the place is principally in the hands of foreigners. Aspinwall is in New Granada, one of the South American republics. It was settled by immigrants from Spain, and belonged to the Spanish crown. It was severed from Spain, however, about the year 1820, by a successful rebellion and revolution; since that time it has been an independent republic. How it is with the great body of the people in the country I will not undertake to say, but at Aspinwall and on the Isthmus generally, nine-tenths of the native population is made up of a mixed breed, descendants of the Negro, the Indian, and the Spaniard. Morally and intellectually they are degraded in the extreme; physically, they are as fine a race as the world can boast of. I hardly saw one while on the Isthmus who would not have been a model for a sculptor; but they are superstitious, cowardly, treacherous, cruel and revengeful, lazy to a proverb and living on breadfruit, plantains and bananas and other spontaneous productions of this teeming clime. They pass their days in the most indolent inaction. They have no trades, no arts and no agriculture, and must always be socially inferior and subservient to the stronger races that have begun to intrude upon them from the North and from Europe. One of these strong races is the full-blooded free Negro, from our own country and from the now free British islands. These Negroes are in all respects superior to the natives. They know a great deal more generally, understand business better, are inclined to be industrious, are far more reliable and trustworthy, and in short are playing pretty much the same part here that the Armenians are playing in Western Asia and that the Yankees have so long played at the South and are now playing almost everywhere: that is to say, by superior sagacity, enterprise, dexterity and thrift, getting the control of the active business of the country. The climate of the Isthmus is unfavorable to the white man, but is the very one best suited to the constitution of the colored race, and in 50 years from this time, and perhaps in 25 years, the British and American Negroes, brought up and trained in free and Protestant nations, instructed in the laws, customs and progressive notions for which these nations are distinguished, and generally invigorated by their long acquaintance and close contact with John Bull and Brother Jonathan, will have gained the ascendancy over all other races here. Business will all be in their hands, the wealth will be theirs, the influence and all the sources of power, and this state of things will not be confined to the Isthmus nor to the State of Granada, but will obtain throughout all the West Indian islands and all those countries that lie between or immediately adjacent to the tropics.

Aspinwall is a miserable hole. I stopt at the "St. Nicholas" —the first hotel in New York bears that name—and acting on that circumstance in part and partly on the representation of gentlemen who pretended to know the character of this Aspinwall St. Nicholas, I, with a large number of other passengers, put our names on to its books. We called for breakfast. The landlord yelled to a half dozen of half naked natives, and they took their fishing tackle and made for the wharves. In about a half hour they returned with some 20 fish that would weigh perhaps a half pound apiece. Some very equivocal looking meat was procured from a butcher's stall over the way, which said stall was made by driving 3 rough poles into the ground about 5 feet high and then 3 poles were lashed to them horizontally with spaces between them about one foot wide. The meat was cut into strips about an inch or so in width and from a yard to 10 feet in length and these strips were woven round among the horizontal poles above mentioned, and there the stuff hung, exposed to the rays of an almost vertical sun. I asked the landlord, who was a native as yellow as saffron and as greasy as a fried sausage, for some water to wash. He pointed to a back yard and out I went. The dining room opened directly into this said yard, and such a scene of brutal aboriginal filth as that yard exhibited I never witnessed before. It beat my hog yard all hollow. Broken bottles, decayed vegetables, fishes' heads and entrails, bones, and every description of rubbish and offal were collected there in cartloads, and then the daily rains and the burning suns had reduced the whole to a mass of the most loathsome and nauseating putridity. The noxious and revolting stench penetrated the dining room and every part of the house. But I washed, after a fashion, and after waiting a while we were summoned to breakfast.

In the first place we were served with the fish, but there was not enough of them to supply one in ten of the passengers with a taste even. Then came the meat—they called it beefsteak. As soon as the plate struck the table I made a desperate lunge at a sizable piece and succeeded in spearing it with my one-tined fork and transferring it to my plate an instant in advance of similar attempts by others. Rejoicing in my supposed good luck, I sliced off a fair-sized and as I supposed savory morsel, and swept it into my mouth with the voracity of a hungry pike. But that piece of meat I never swallowed. Immediately after taking it into my mouth I had occasion to rise suddenly from the table. By two or three rapid bounds I reached the back yard above named, and all I have to say is that when I returned I must have weighed less by a number of pounds. . . . After drinking a cup of muddy coffee and gnawing a slice of unbuttered bread, and paying a dollar for the chance, I left the table and the house, and from that time until the cars left at 10 o'clock I amused myself by walking round the town observing the manners and customs of the natives and seeing generally what was to be seen. At 10 o'clock the train started, and by 5 P. M. we reached the "Summit." The distance is but 38 miles and you will see that our rate of travel must have been slow. The road is full of short curves, and the grade is generally very heavy, but when completed it will doubtless be the great thoroughfare between the Atlantic States and the Pacific until a railroad shall have been built across the continent to the North. But I did not regret much the lack of speed in our transit to the Summit. There was no lack of objects to interest the attention. The whole country is in a state of nature. There is scarcely a trace of any change wrought by the hand of man. After leaving the seacoast it is wild, broken, and mountainous, and now, in the rainy season, is traversed by dashing, roaring brooks, tributaries of the Chagres River. And all these hills and the ravines and gullies between them are covered with a dense and gigantic vegetation far outrivalling, in size and in the depth of its green, the forest scenery of the North. Though unimproved, the country is not uninhabited. There are detached houses all along the line of the road, and villages are not infrequent, but the houses are such as are built and inhabited by bar-

barians only. Four rude posts stuck in the ground forming a square, and the square covered with a roof of thatch, is the mode in which they are generally constructed. There are no chimneys, no floors, no apartments, and all the houses and villages are literally swarming with naked or half-naked natives.

At the Summit the Railroad ended, and the rest of the journey to Panama, a distance of 11 miles, was to be performed on mules. When we left Aspinwall the expectation was that we should reach Panama that night; but on reaching the Summit we met the passengers from San Francisco by the steamer Golden Gate, who were bound for New York. They represented the road as being very bad. It was further currently reported that the banditti with which the road has been infested at times, had attacked, robbed and killed one of the passengers. These circumstances, together with the lateness of the hour, brought us at once to the conclusion to stop at the Summit over night, and the passengers by the Golden Gate were compelled to stay there also. That night no one of the 1000 wayfarers that made up our number will ever forget. Fancy a clearing of say 25 acres in the midst of a dense tropical forest. In this clearing there are a half dozen native huts partially inclosed at the sides, and each hut is supplied with a bar at which every description of bad liquor is retailed at exorbitant prices. Each hut also spreads a table covered with stewed monkey, boiled mule, mouldy bread, and everything else almost that is revolting to the taste and stomach of a civilized man. There are no sleeping accommodations except what are afforded by the unlighted and unventilated cocklofts of these huts, but all together would not afford room for 200 persons to lie down. The clearing referred to, the rains and the tramping of men have turned into a great mortar-bed. At every step you go half-leg deep into the adhesive mud, and sometimes up to the knees and perhaps higher. And here are 1000 whites, men, women and children, gathered from the four winds and speaking in the dialects of half the civilized nations of the globe. There are perhaps, in addition to these, 1000 naked or half-naked natives of both sexes and of all ages and sizes, and they have in charge perhaps 1000 mules which they are seeking to hire out to us for the next day's journey to Panama. In addition to this motley crew of men and animals, there are vast flights of turkey buzzards slowly wheeling through the air or resting for a time with outstretched wings on the topmost limbs of the gigantic palms that skirt the clearing. These birds are the scavengers of the Isthmus. The rain is pouring down in torrents, and the passengers, through the rain and mud, are pouring from the cars into the huts.

The business of eating was not completed till past midnight. The drinking did not stop at all. Such a scene of bacchanalian and brutal rioting I never witnessed before. The floors were covered with drunken men or with those who slept the perturbed and fitful sleep of exhaustion. The women and children were piled, one top of the other, in the lofts. As for myself, after eating a little boiled rice, I and my two friends started for a pile of boards which we discovered in a back yard. We smoothed and widened the top of the pile by repacking it, spread our blankets upon it, lay down and covered up, and if we didn't sleep much we rested quite comfortably, all things considered. We paid $1.50 for our supper, and those who lay on the floors in the huts had to pay $2 for the privilege. We cheated the landlord out of our lodging by camping out.

By 5 o'clock we were up and breakfasted upon a plumcake that Howe brought from home with him, and then we were employed for about two hours in selecting and pricing mules. In the end, after a deal of higgling and chaffering, we secured three as promising mules as were to be seen, then mounted, and took at once to the mule-path that led to Panama. At least 200 of the passengers had started before us, but we passed the larger portion of them. Our mules turned out to be remarkably vigorous and smart. For the last four miles we ran any number of races, but distanced all competition, and arrived at Panama at 11:30 A. M. in fine spirits. We stopt at the Louisian Hotel.

We staid at Panama until the next day, Tuesday the 31st of October. While there I busied myself in surveying the town and the country round about. There is very much in it to interest an untraveled New Englander. The city stands directly upon the seashore, and is surrounded by a wall built for the purposes of defense by the Spanish government a century and a half ago. These defenses are said to have cost $20,000,000, but are now greatly dilapidated by decay and neglect. The houses within the walls are all of stone and are apparently as ancient as the wall. Many of them are now in ruins, and those that are still inhabited are under the law of deterioration and decay. There are no buildings in course of erection and none that are undergoing repairs. Even the convents and the vast and magnificent cathedrals will soon be but disjointed piles of stone and mortar. The people within and without the city have no occupations, no industry. The country has no resources, and everything invites and presages the time when a stronger and more vigorous race will supplant the indolent and degraded tribes with which these regions are now infested.

On Tuesday, Oct. 31st, the passengers were embarked on board small boats and were carried in them to the steamer Golden Gate, lying at anchor about 4 miles from shore. The water was so shallow that the boats could not be brought within 3 or 4 rods of dry land, and the passengers were taken to the boats on the backs of the natives. Some of the passengers—and there were women in the number—dispensed with the services of the natives; some of them tumbled down in the surf and all of them got pretty thoroughly drenched with salt water. In a half hour we were all safely *landed,* however, on the deck of the Golden Gate. She is one of the most splendid steamships afloat, and notwithstanding the number of her passengers there is ample room for them all.

It is now Sunday, Oct. 5th. We are about 1500 miles to the north of Panama, and in an hour or two shall drop anchor in the harbor of Acapulco, staying there about 24 hours to take on coal and water. We have so far had a most delightful voyage. This ocean has in our judgment earned anew its title to the name it bears. We have for the most of the time been within sight of shore and are now within a mile of it.

We have had religious services on board to-day, conducted by two Episcopal clergymen according to the forms of their church and attended by pretty much all on board. I shall seal up and dispatch this letter from Acapulco.

You must not infer, from the account I have given of my tribulations on the Isthmus, that I was very much disturbed by them, for in fact I was not disturbed or unsettled by them at all. I in fact enjoyed my ludicrous experiences there very much. It was very much like a trip into Texas a-fishing, only a good deal more so. A new country with its strange and gorgeous scenery, strange forms, naked or clothed in varied and outlandish costumes, a people whose manners and customs and entire social life were the opposites of all that I had been accustomed to, were enough to make me indifferent to muddy boots, a wet hide and an empty belly.

I believe that in this long letter I have said nothing to the little girls or the little boy, but while writing it from time to time I have looked at their pictures and their mother's, and as I gazed could almost fancy that you were all present before me. I need not remind them to be good children, obedient in all things to their mother, kind and respectful to their grandparents. Their father lives only in them and for them, and hopes long before they have ceased to be children to be reunited to them and their ever dear mother.

From your affectionate husband,

O. L. SHAFTER.

AT SEA, Nov. —, 1854.

DEAR SARAH:

When I closed my last letter we were nearing the port of Acapulco. It was on Sunday the 5th of November, and we cast anchor about dark. The harbor is of great interest and of considerable commercial importance. The coast is rock-bound and generally unindented with bays and inlets,—so much so, indeed, that Acapulco is the first port north of Panama, a distance of 2000 miles, where vessels can flee for refuge from the storms that sometimes sweep the Pacific. The entrance to the harbor is through a rent in the high mountain range that skirts the sea. The opening is not more than 15 or 20 rods wide, and leads into a port covering perhaps 1000 acres and surrounded on all sides by wild, precipitous mountains that rise to the clouds.

The town of Acapulco is built upon a little ~~slip of~~ comparatively level ground lying at the foot of these mountains and between them and the waters of the bay. The town is defended towards the sea by a fortress built upon a point of land to the south. It is built of stone and was erected by the Spanish government before the Revolution by which Mexico achieved its independence in 1820. We stopt at Acapulco for the purpose of taking in coal and water. All the coal consumed by the steamers on this coast is brought from the Atlantic States and around Cape Horn. There is a large supply of it at Acapulco, amounting I should think to many thousand tons.

There are two old hulks in the harbor with just space enough between them for a steamer to lie. These hulks are loaded with coal, and from them it is transferred to the steamer in baskets carried on the backs of the native Indians. As soon as our ship had been secured in its position between the hulks, their decks were thronged with 50 or 100 naked and half-naked Indians, each one armed with his basket of hide. At it they went, yelling, screaming and howling like so many fiends, and as I stood and watched them by the imperfect light of the lanthorns, as they passed in a continuous line from the hulks to the ship and from the ship back to the hulks, it required but a slight effort of the imagination to regard them as indeed the imps of one who shall be nameless.

About 9 o'clock in the evening another death occurred on board. The man was from Arkansas and died from neglect and the Panama fever. He was taken on Thursday at the dinner table, grew worse rapidly and steadily, and died at the time above named, and there were none but strangers around him in his last moments. He was carried on to the hurricane deck, and in the morning about break of day his remains were sent ashore for interment. Such is life!

It was announced that the ship would sail at 8 o'clock, and at 6 a party of us started in a boat for the shore to deposit our letters with the American Consul and see the town. It is built very much in the style of architecture that prevails at the Isthmus, but the sides of the houses are generally closed up by a series of small poles lashed together and standing on end. We visited the market-place and found 100 to 200 Indian women squatted on their hams, busily engaged in selling chickens, yams, bread-fruit, bananas, red peppers, onions, etc. Their stocks were very small but their prices were very high. I notice the State to which Acapulco belongs is now in rebellion against the Mexican government under the leadership of Alvarado.

Santa Anna, the emperor of Mexico, has now a large force in the mountains to the East, which it is understood is marching or about to march to the attack of this city and the fortress by which it is defended.

After remaining awhile on shore we returned to the ship. The signal gun was fired at 8 o'clock and soon all those who had gone on shore were again on shipboard. At 11 o'clock the anchor was weighed and in a few moments we were out of the harbor and again afloat upon the open sea.

Wednesday, Nov. 8. From Acapulco so far the voyage has been delightful. A calm sea, mild and balmy breezes, the towering summits of the mountains in the distance, full moons at night floating in deep unfathomable blue, music, reading and pleasant discourse with very pleasant people, have relieved the voyage so far of its tedium; but still I shall be glad when it is ended. This morning we were in the latitude of Cape St. Lucas and now are over 100 miles to the north of it. We have already left the torrid zone behind us, with its burning days and glorious nights, and as hour by hour we progress farther and still farther to the North, the climate becomes more and more like that to which I have been accustomed. However it is not cold enough yet to prevent my sleeping on the open deck. Since leaving the Isthmus we have had daily on the dinner table green peas, string beans, asparagus, etc. This will seem somewhat odd to you who are about entering upon the rigors of a northern winter.

I have made very pleasant acquaintances on board with gentlemen and ladies from Vermont and elsewhere, and on inquiry have found many passengers acquainted with those whom I have formerly known. I have met with a Mr. Gray from Cambridge, N. Y., but who formerly resided in Weston, Vt., who went out in the same ship with Willard Stark in 1849. You will recollect that Stark went round Cape Horn. They were together for some time in California, and he has told me many anecdotes relating to their adventures.

Thursday, Nov. 9. We are now about 1500 miles from San Francisco, but if nothing befalls us we shall arrive there on Monday or Tuesday next. Yesterday we met the steamer John S. Stevens, bound from San Francisco to Panama. She will touch at Acapulco and will take the letters that I left there with the American Consul. She passed us about 10 miles to the west, but with the aid of the glasses on board we could not only see the vessel with great distinctness, but her flags and passengers. It was greatly regretted by those who supposed they had friends on board the Stevens, that the two boats did not come sufficiently near to enable them to recognize and greet them.

We are out of sight of land now and have been for the last 24 hours. I forgot to state that when we lay in the harbor at Acapulco there were 15 or 20 Indian boys swimming round the ship and calling continually upon the passengers to throw them a dime; and there were a great many dimes and not a few buttons thrown into the water. As soon as the dime would strike the water the boys would dive like a parcel of ducks, and I didn't notice an instance in which they failed to secure the dime, and that too before it sunk any considerable distance. In the meantime they kept a sharp lookout for sharks, and it was well they did, for while they were in the midst of their sport there, a shark about 10 feet long made his appearance within a few rods of them; but the little fellows were seasonably notified and scattered at once for the heavy chain cables by which the hulks were held to the anchors. They climbed up these cables with the agility of monkeys, by putting their toes into the iron links of the chains. When they had got where they thought themselves safe they raised a great outcry, for the purpose of frightening off the shark, I suppose. Anyhow the shark immediately disappeared, but some one of the passengers, for the purpose of trying their pluck, threw out a dime in the next moment, and down the little fellows went headfirst into the sea. One of their number got the dime and they all clambered back again up the cables.

While on shore at Acapulco I saw many most beautiful varieties of coral offered for sale by Indian children, and most exquisite shellwork wrought into flowers and wreaths of flowers and into bouquets. Had I been on my return home instead of my passage out, I should have purchased freely of these curiosities of nature and art.

My appetite is not very good, but all I mean by that is that it is not voracious. I do not like their cooking; it is too much in the Spanish style; everything almost is flavored with red pepper, onion and garlic. My health so far has been perfectly firm and my spirits quite as good as I ever allowed myself to hope they would be; and I find that my spirits and courage rise as I approach my journey's end, and I view without dread the arrival of the hour that shall involve me in the labor and strife that await me.

This afternoon and immediately after dinner, on coming on deck a cry was raised by the steerage passengers of "A whale! A whale!" And sure enough, only a few rods from the vessel there was a veritable whale spouting and blowing and every now and then heaving half his diameter above the surface of the water. In a few moments three others were discovered, forming what the whalemen call a "school." The whale roams through the ocean as widely and freely as the buffalo ranges on the land, and both are put upon their migrations by the same motive: the necessity of providing for their subsistence. The whale preys upon a small fish of the herring tribe, and when it is exterminated or driven from one section of the ocean, the whale must seek its game elsewhere. The whalemen call it "a change of pasture." The sight of these monsters of the deep gave great satisfaction to the passengers, most of whom saw them for the first time. Ask Hugh if he would not have liked to have been with his father and seen the great whales which pleased the little boys and girls so much?

Friday, Nov. 10. It is now noon. The land is again in sight and it is only some 10 miles off. We have sailed 200 miles in the last 24 hours, and have fallen in with another school of whales more numerous than the other, and there is a large vessel some distance ahead and standing directly across our course, which is understood to be an American whaler.

Saturday, November 11. At noon to-day we were within 480 miles of San Francisco and the prospect now is that we shall arrive there Monday morning next. Though the voyage has been a pleasant one, yet no one will regret its conclusion.

IV

A BUSY YEAR IN EXILE

ALMOST from the moment of Mr. Shafter's arrival in San Francisco, his professional duties came upon him with a rush. He entered upon them with his customary industry, at the moment no doubt spurred to new zeal by the long period of enforced inaction on shipboard. Yet he found time to add a new sheet to the home letter quoted in the preceding chapter, setting down in vivid language his first impressions of the strange city and the new life upon which he was entering.

Arrival in San Francisco. First impressions.

(Continuation of foregoing letter.)

WEDNESDAY, Nov. 15.

I am in San Francisco safe and sound and without having experienced an *alarm* even on the passage. We arrived here on Monday the 13th at 5 o'clock P. M., having been on the way 23 days and 15 hours from New York, one of the shortest, and I believe they say the shortest passage on record. Looking back upon the voyage, I simply wonder why it should have appeared so formidable while in prospect.

I commenced my engagement, or rather entered upon a fulfillment of it on the day of my arrival. I have been in the office most of the time, reading at large with a view to getting hold of whatever there may be peculiar to the law of this State, and the peculiarities in the practice of its several Courts; have further been occupied in the examination of cases now pending in which the firm is retained, and in considering questions of law brought to the notice of the firm since my arrival. I have explored the city to some extent, and have obtained some capital bird's eye views from the top of the Pisgahs in the vicinity of the town; as a specimen of landscape scenery San Francisco and the country adjacent is unrivalled.

The harbor or rather bay of San Francisco is the finest in the world. Its shape, and the situation of the city upon it you will ascertain by looking at the map. I was received with great cordiality by Mr. [Trenor W.] Park and his partners; have been here long enough already to satisfy myself that their business is immense and immensely lucrative. Park all but insisted upon my living with him, and I have accordingly gone to his family. It consists of himself, his wife, little daughter, John Hall, Park's sister who is teaching school here, and servant. Park has a very pretty house in the suburbs,* but it is rather small, and my own accommodations there, though neat, snug and pleasant, yet are not very roomy. But the office is all that could be desired. There are four large rooms, and each is fitted and furnished like a parlor. I stay in the one that is occupied by the library. I have not got fairly settled yet, but shall get and am getting into harness with the greatest dispatch possible. Young Cheney called on me Monday night, and yesterday Dr. Fitch obliged me with a call. They are both well and each of them has been quite successful as I understand.

Well, I am here. The goal is reached. I feel as though I was commencing life anew and that all the probationary steps to success had to be taken over again. During the 2 or 3 days I have been here I have been introduced to a great many of the leading men in the city by the politeness of the gentlemen connected with the firm. There is an immense bustle, an incalculable hurrying to and fro in the streets. It surpasses belief almost the wonderful changes that have been wrought here in a few years on the face of the earth, and like changes are now actively in progress on all sides. The population is about 60,000 already, and it is made up of emigrants from all nations. There are a great many Chinese in the State and in the city, and with their half shaven heads, long queues hanging down to their heels and outlandish dresses, they present an exceedingly whimsical appearance to newcomers. But the controlling element in the population is the Yankee. He by his energy and intelligence subordinates everything to himself and impresses upon everything his own image.

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*In Tehama St. near Third, on the slope of Rincon Hill, then the most fashionable residence section of the city.

I am very anxious to hear from you, and shall be much chagrined if the boat that will arrive here on the 22nd does not bring a letter from you or my dear little daughter Emma. You must not allow a mail to leave without sending me a letter. Has Mary got along with her writing so that she can put in a word to her father? Perhaps she understands writing enough to put in an entire letter. As for Hugh, he for a year or two longer cannot be expected to make much more than his mark, I suppose, but in the meantime he can be a good boy and mind his mother and grandparents, be kind to his sisters and remember his father, who in the meantime will not forget any of you or forget to love you.

From your affectionate husband,

O. L. Shafter.

Extracts from Diary.

November 21, 1854.

Mr. Park requested me to aid him in the hearing of a motion to dissolve an injunction which had been set down for to-day. The principles involved an inquiry into the Constitution, Statutes and Judicial Decisions of the State, with which I could, of course, have but a very limited acquaintance. But I availed myself actively of the opportunity afforded by the interval, and made all the examinations and preparations I could. When the time came, I went into Court satisfied that I was in trim to present the question with tolerable thoroughness to the Court. I began my argument and felt on rising far less of tremor and misgiving than I had anticipated, and after going on for about half an hour, the whole hearing and my speech as a part of it, was unexpectedly concluded by the adversary counsel abandoning their motion to dissolve. The Reporters have reported my remarks in the daily papers, and the injustice they have done me is not so great as to be altogether intolerable. Well then, the ice is broken, and I shall probably be less affected by my habitual diffidence hereafter.

NOVEMBER 22D, 1854.

To-day I have attended Court with a view to see the manner in which business is conducted. The case up was an ejectment in which our firm appeared for the defence. Things went on pretty much as at home; the witnesses swore and the lawyers maneuvred and talked; the Judge listened and looked sober and wise as in the land I have left behind me, but there are few or no spectators. There is more to busy and attract the crowd outside the Court House than there is in it.

Oscar L. Shafter to his Wife.

SAN FRANCISCO, NOV. 23, 1854.

DEAR SARAH:

The steamer leaves here day after to-morrow for the Isthmus. There is no regular mail however, but mindful of my promise, the spirit of which was to write you by every opportunity of so doing, I shall send this to New York by express.

Well, how do you and the dear children and Grandfather and Grandmother get along? This is a question that I often ask myself, and it is one that I am expecting will soon be answered. It is a great consolation to me to know that you are all together, beneath the same roof, warmed by the same fire, eating at the same table, and reading and sewing by the light of the same lamps during the lengthened nights of a Vermont winter, and all interested by the strongest ties in each other's happiness and welfare. Is my little son mindful of his father and of his hopes, so often expressed, that he will be a good boy, doing in all things as his mother tells him to—always pleasant, always kind, and above all things else, ever speaking the truth? All these things I doubt not he faithfully remembers and practices, and will continue to remember and observe through life. And my little girls, the apples of my eyes, how are they, in their far-off—to me—mountain home? How earnestly does my heart inquire, is it *well* with them—has no evil befallen them since my eyes, blinded with emotion, saw them last?

By the next steamer a letter will come, giving me answers to these questions and relating all that has transpired for one and maybe the two weeks ensuing my departure. I await its arrival with great impatience as you may well imagine. But hereafter I shall hear from you just once a fortnight, if you write that often and letters do not miscarry. How do you and the girls like your colt? I told Barret to make a new girth for the side-saddle and I presume he has done it.

Shall I talk awhile now about myself and what mine eyes have seen since my arrival? As I told you in my last I am boarding with Mr. Park. John Hall boards at the same place and I am very much obliged to Mr. Park for taking me into his certainly very pleasant family. I am already fully domiciliated and pretty fully domesticated as a member of his household. My daily routine is already fully established and is as follows: I get up at half past seven in the morning, breakfast at 8; then go to work, spending the day at the office or in court; at 5 o'clock we have dinner; then return to the office, remain there until half past 11, and then go home and go to bed. When home, at dinner, Mrs. Park and myself and John take a bout at the piano, singing the songs we used to sing in the dear land from which we all came. I find the exercise a great relief, not only in the perplexities incident necessarily to my position in a country whose laws I am obliged to rapidly master, but a relief for the sadness induced by absence from those I love. Do not infer however from this that I am down in the mouth and go about with my head bowed down like a bullrush. Nothing like it! I am full of pluck and full of hope as I can hold, and determined to avail myself of all the facilities I enjoy for accomplishing the ends for which alone I came. The firm is very wealthy and is doing an immense business—the largest in the city and the largest in the State.

So far as present surroundings are concerned I find myself most agreeably situated, and so far as prospects are concerned they promise more than I ever supposed it would be my lot to enjoy.

Since I have been here, for I began on the morning of my arrival, I have been in the office at least 15 hours a day, at work all the time as hard as I can jump. Last Monday I made my first appearance in court. It was a case of some $200,000 consequence, to which the City was a party, and was, to me a newcomer, a case of a good deal of difficulty. The questions to be argued were questions of law, and I had only some 24 hours to prepare. The time came. I went in, began and talked for about half an hour, and talked straight along, if what I said was not so cunning! And then the Counsel on the other side intervened and submitted to a nonsuit. I do not however mean to intimate that they did this in consequence of anything that I had said for it was not so in fact. They took this step in consequence of their dissatisfaction with a decision made by the Court on a preliminary question. My speech, so far as it had progressed, was reported in the daily papers, and I will send you a copy of one of them by the next mail. On the 4th of next month I shall be connected with Mr. Park in the trial of a very important case before a jury in the District Court.

This is a strange city, filled with a strange population. Seven times has the city been laid in ashes by fire, and now it has a population of 60,000 souls, the majority of whom live in princes' houses and do business in shops and warehouses of which the oldest and most populous city might well be proud. The male portion of the population are men in the prime of life; there are no old men, no cripples and no idlers, for but the vigorous and active would come to this remote country. It would not do for any others to come. There is a great deal of frankness and cordiality among the citizens and denizens in their intercourse with each other, and the energy and speed with which they do things is a marvel. I have been introduced to a great many since I have been here and have not yet met the first man who did not display singular intelligence in discourse, and not one who was not a keen and rapid thinker, and precise and rapid talker. The fact is they are all under the whip, they are all impelled by the spur; to think is to speak, and to speak is to act, and to act is to win all or lose all. The women are beginning to come, wives and daughters, and the old settlers all say that they bring blessings with them. Churches have been built and several are now in process of erection. Sabbath schools have been founded, homes have been established, and numberless other local changes have taken place within the last year or two which the old residents attribute to the advent of women among them. I never was in a city where more importance was attached to dress, never indeed, where there was half so much importance attached to it among men. All the business men are clad in the richest materials, made in the latest styles, and in their personal habits they are fastidiously neat. I have been told by those who know that an ill-dressed man is little likely to succeed in business, whatever his business may be.

The women appear in the streets clad in the most costly apparel. Montgomery street in this respect outshines Broadway even. Silks of the richest fabric and the most expensive pattern are uniformly worn in the streets. This is a city of dust emphatically, and this may account for the fact above named, as silk is less affected by dust than woolen would be and the climate is altogether too varied for cotton.

There is a great deal of galloping to and fro on horseback; this habit the conquerors have learned from the conquered. The Mexicans all but live in the saddle, and there are no finer saddle horses in the world than here. The mountainous character of the country, and the fact that the roads are generally bad, explain why traveling on horseback is the favorite mode of locomotion. * * * *

Your affectionate husband,

O. L. Shafter.

From Diary.

NOVEMBER 24TH.

Today is Thanksgiving, my first for many years away from home. I see little so far, however, to distinguish it from other days I have passed here. The shops are all open, save the banking houses; even work on the city jobs is not suspended, and there has been but one religious meeting during the day, so it seems that in a population of 60,000 the dimensions of a single church are ample enough for the accommodation of all those who desire to render public thanks, in compliance with Governor Bigler's Proclamation. I have not attended church myself, and ought therefore to refrain perhaps from criticising others. The pressure of business constitutes my apology for passing the day in the office, yet if I do not misjudge, I feel grateful to God for his goodness manifested to me and mine during the year which is now past. Death has not visited my family, or disease, nor has fire wasted my possessions or desolated the home reared for those I love. Nor has any calamity befallen me or them, except the calamity of separation, but that I trust will not be a permanent affliction, and then if we had not been separated, the joy and ecstacy of reunion would not lie in prospect to gladden and encourage the heart. Where shall I be and how and when the next anniversary of this Pilgrim Festival shall arrive? And how will it be with the wife I adore and with the children that I love? Will it be well with us all? But why should I seek to penetrate the future? I will not interrogate it or inquire concerning it, but leave it to reveal to me its own mysteries as it develops itself in the present.

NOVEMBER 25TH.

Today has been a busy day with me; drawing papers; answering questions and examining cases.

One matter that I have looked up presents a question of much importance, and has interested me greatly. There is a British man-of-war in the Bay, having in charge the Russian Bark Sitka as prize of war. There are two Russian prisoners on board, forming part of the crew of the Sitka at the time of her capture on the high seas. A lawyer here from the South, Edmond Randolph, a nephew of John Randolph of Roanoke, has started a project of suing an habeas corpus returnable before a local judge for the purpose of testing the validity of the authority by which these prisoners are held. He is a fanatic upon the subject of slavery, and avows that he cares nothing for the prisoners, but starts the above proceedings for the purpose of embroiling the British Government and our own in war. From my examinations, I am perfectly satisfied of two things,

First, the Court has no jurisdiction in the premises to issue, to-wit:

1. None under the customary laws of Nations, for the deck of a National vessel is part of the territory of the Nation to which she belongs, and the municipal tribunals of one Nation have no jurisdiction over persons or property in the territories of another.
2. By the 25th of October, according to the Treaty between the Government of this country and the Government of Great Britain concluded in 1794, each Government licenses the other to enter its ports with their public ships, attended by their prizes of war, and exempts them while there from all searches and visits on the part of the local authorities.

II. I am further satisfied that if the Court has jurisdiction, the authority by which the prisoners are held is legal under the law of Nations, for

1. There is no doubt but that the Sitka was captured on the high seas in the prosecution of hostilities between Great Britain and Russia.

   There is no doubt but that that capture was every way lawful under the laws of war.

   She is now under a license in a neutral port, which license was given by the Sovereign to whom that Port belongs.

   The fact of license is to be presumed from the circumstance that the entry was not prohibited.

And as the entry was no violation of neutral rights, the prize is now as much exempt from our local jurisdiction as though she was riding upon the high seas.

2. The provision of the treaty before cited is an express license to enter, and therefore, she loses no right appertaining on general principles to the National character of the ship.

The motive of Mr. Randolph in instituting the proceedings deserves and meets from me nothing but reprobation. His conduct is paralleled only by that of the sacreligious Ephesian, who for the purpose of indulging his own ambition destroyed the fairest temple ever reared by human hands.

Oscar L. Shafter to his daughter Emma.

San Francisco, Dec. 5, 1854.

My Dear Daughter:

. . . Your letter interested me very much, and the few lines added by your mother were very, very welcome. I read it over repeatedly and ever with increasing interest. Then the little boy not only *remembers* his father, but *dreams* about him and *cries* on his account when he wakes? Well, I came very near crying myself when I read it, but tell the dear little fellow that he must keep up a stout heart, and before a great many moons his father will come home and put an end at once to his tears and his dreams. Mary you say is as "fliety" (flighty) as ever. Well, I trust she will grow less and less so as she grows older. Little girls cannot be expected to have so much control of their limbs as those that are older, and I doubt not that in her case sobriety and all desirable decorum of manner will come with years. I am glad that she has made so much improvement in writing, and hope that by frequent practice in writing to her father, she will retain and improve upon what she has already learned.

I am much pleased to hear that Hugh intends to learn all he can this winter. If he does not eat too much cake and mince pie, and fills his little sack with potatoes and meat and brown bread, and moistens his clay with nothing stronger than milk and cold water, and goes to bed early and gets up early, and always has his hands and face washed and his head combed before breakfast, and goes to school in good season and studies hard while he is there, and goes right home when school is over and minds his mother and grandparents in all respects and is kind to his sisters, I have no doubt but he will very soon get so that he can read anything, and will be able even to write long letters to his father, who loves him and all of you so much.

I trust that you do not fail to write in your Diary every night before going to bed. Exact compliance with your father's wishes in this particular will not only be very beneficial to you, but a great gratification to you and to us all in years to come. Your Diary, so kept, makes you the ***historian*** of your family, of its joys and its sorrows (and in the providence of God we have had both), and of the whole course of its daily life and the life of each member of it. I hope further that your resolutions to learn all you can this winter are as strong as Hugh's at least. He is a little boy and may forget his good resolutions or fail to act upon them, but you are of an age now to bear constantly in mind your good resolves, forgetting them not for a moment even, and of an age to carry them into effect with unfailing and unflagging constancy and perseverance. Above all you must learn the severer but pleasant task of being good—good to those right around you—good to all—good at heart.

Then little Alice has got so that she can laugh when she is tickled? I am glad to hear that she knows more than when I left. If she is as bright a baby as I believe her to be, she will very soon be able to do not only her share of the laughing, but her part of the tickling also. She will be a great delight to you all as she grows, and it will be a great delight to me to hear of all the little proofs she shall give from day to day that she has got the *root of the matter* in her. I devoutly hope, with the rest of you, that *this* little Alice will live, and that by one or those blessed illusions by which the hearts of the sorrowing and stricken are so often visited and comforted, her lost sisters of the same name will in her be again restored to us. When the babe has got along far enough, you must tell her about her father and teach her to lisp his name. . . .

And now good bye. Love to Mary, Hugh and the baby and to your dear mother. . . . O. L. SHAFTER.

Oscar L. Shafter to his Father.

SAN FRANCISCO, Dec. 14, 1854.

DEAR FATHER:

. . . Yesterday we concluded a jury trial of three days' continuance. The action was for an alleged Assault and Battery upon the plff., an Irishman, one Larkin, by the defts., five in number. The principal was Joseph L. Folsom, one of the wealthiest men in the City. The damages were laid at $20,000, and doubtless damages to that amount had been sustained, for the plff. had his arm and thigh desperately fractured by pistol balls and is badly crippled for life. The plff. and his associates, on the evening of the 8th of June last (1854) without any title to the land, attacked and by mere dint of superior force expelled Folsom's workmen from a City lot, Folsom being its rightful owner beyond a question. The workmen, after their forcible expulsion, organized, armed themselves to the teeth, and at 3 o'clock in the morning made a descent upon the freebooters, who had in the meantime entrenched themselves on the premises. On being summoned to evacuate, they refused, and fired on the word, those who fired and the persons they fired at being off the lot and in the public street at the time. This fire was immediately returned, and the plaintiff by that fire received his injuries. Folsom defended on the ground that he had no connection with the affair whatever, alleging that his workmen acted entirely on their own motion. The other defendants defended on the ground that the first fire came from the plaintiff and his associates, and that they returned the fire in self-defense, and further on the ground that they were in the occupancy of the lot by *right* when they were dispossessed by *strong hand* and therefore that they had the right to expel him from the land by any amount and kind of violence necessary to secure that object. There were many points of law and fact presented in the case besides these. Park and I tried the case and every inch of ground was contested from first to last. The case excited a great deal of interest and the courtroom was crowded throughout the trial. A great many lawyers were in attendance. My spirits mounted with the occasion if I fell below it myself. On a foreign shore, among a people who knew me not and whom I did not know, still with everything to win and nothing to lose that had been acquired here, I went into and through the fight with a self-possession and command of all the resources that were in me, that I never began to experience when crowing on my own dunghills. I summed up for the defence in a speech of just three hours, and all I have to say about it is that I succeeded in satisfying my employers and theirs. The papers contain a "report" of my remarks—the longest and the worst I send you. You can read in 2 minutes what it took me 3 hours to utter; from this you will be able to judge what kind of justice the report does me. But the reporters do not condense and mutilate and mangle me more than they do all others. All the lawyers are awfully annoyed by the well meant efforts of reporters, but against such grievances there can be no protection, so the best way is to laugh over them and be resigned.

I have nothing to occupy my attention but business, and I have been at it since and including the day of my arrival, at the rate of 15 hours a day on an average. The amounts in controversy here are told by "ten thousands"—"hundred thousands"—and "millions," and the questions involved are many of them of great interest and difficulty. I went right to work when I reached the office, to inform myself about all that was peculiar to the local law; it took me but a short time to do that. The great body of the law here is the same as it is in Vt., and in all other States that have adopted the Common Law of our common mother, Great Britain, and I feel as easy in harness, and transact business now with as little special study as I ever did at home. There is an incalculable amount of litigation in prospect as well as in progress, and going by Atlantic standards, the rates of professional compensation are perfectly fabulous. $1,000, $5,000, $20,000 retainers are of frequent occurrence in the transactions of the firm with which I am connected. Park has told me, without solicitation, that I can come into the firm as soon as Halleck, who is no lawyer, retires; that he will do so, he thinks, in 6 months. Peachy is vastly rich,—above business,—engineering for the U. S. Senate, and will probably withdraw before long. At any rate at the end of the year I shall come into the firm, or demand and receive a compensation that will be in some proper proportion to the amounts received by the members of the firm. I have every reason to believe that I enjoyed their confidence before I came, and it is exceedingly grateful to me to believe and *know* that so far all their just expectations at least have been answered.

About a fortnight since the "Sitka" was brought in here by a British cruiser as prize of war. * * * As soon as I heard of it, I was given to understand that the firm would be employed by the British Consul, and that I must take charge of the question. The writ was served, but the subordinate officer in charge of the prize was dunce enough to be up with his anchor and put to sea. He ought to have kept his anchors down in justice to his own government, and have boldly challenged and defied the local jurisdiction. Then Randolph went into the newspapers with all sorts of nonsense. Others replied to him, but finding that none of the others had got hold of the question in its true aspects, I wrote an article for the *Times and Transcript* myself, with a request that it should appear in the editorial columns, and it did. I send you one of the papers. The editor prefaced some remarks of his own. I have made a mark where mine begin. . . .

In the changes in the firm that are in prospect I have little doubt I shall find the opportunity that I am awaiting for Jim.* He is a better lawyer, a better talker, and a stronger and more available man than any one belonging to the firm, and they are all of them quite respectable, and Park is very smart and efficient,—more so than all the rest put together. I'll have Jim here in a year or two at the outside.

Your son, O. L. SHAFTER.

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*James McMillan Shafter, a brother.

San Francisco, Dec. 14, 1854.

My Dear Wife:

The steamer arrived about 2 hours ago from Panama. The boy has been to the postoffice three times, and has brought letters at each return for those who are expecting them, but as yet has brought none from home for me. I have answered a dozen questions in the meantime, put to me by men in the office on business matters, and now as I write, apparently without stopping, I am arrested every now and then at the end of a word and sometimes right in the middle of one, to respond to some interrogatory on some point as foreign to the general trend of my thoughts as can well be imagined.

The Postoffice messenger has just returned with five letters—for himself. And now he is tearing them open like mad, and as he reads his eyes glisten and his face flushes, and his lips tremble. I stop and say to him that I think he must be reading a letter from his sweetheart; he turns to me, and says, "No, sir. The letter I am reading is from my dear old mother." A letter from his wife or daughter might move him as much, if he had them, but I doubt if one written by a mere sweetheart would. But the letters are not as yet all distributed—it takes 24 hours to do that—and my belief that you have not failed to write me remains unshaken.

To my little son I am sending a paper filled with pictures, and that it may appear more fully that it is intended for him, I have directed it *to* him. Mr. Billings bought it, and requested me to send it to "my little boy" with his compliments. Though it is Hugh's, yet I doubt not he will let his sisters look at it, if they will only promise him not to injure it. The next time I write, I shall write to him, I think. How would he like to have a great long letter from his father? Will he keep it, and keep it always? I have letters from my mother in the Library that I would not part with, sooner than I would forget to remember her. And the first letter that my son shall write me will be ever preserved in remembrance of him. I carry that pincushion the girls gave me in my vestpocket; the pins are not all gone yet, and I intend that some of them, at least, shall recross the Isthmus with me. I take it out half a dozen times a day for the purpose merely of looking at Hugh's *jacket* on one side of it. It does me quite as much good as it does to look at his daguerreotype, and the entire article is associated further in my mind with the affectionate regard and filial forethought of my little girls.*

I never liked to write letters very well till since I left home; but there is no calculating and no expressing the keen yet quiet pleasure it now gives me. It really seems as if I was with you again amid the walls of home, talking, laughing, reading, singing, or sitting with my feet on the wood-box, keeled back in the rocking chair and quietly munching and chewing the food of sweet and bitter fancies.

Now when I had written the word "fancies" I started for dinner. I was off on that important duty about an hour and have but just returned. Still no letter! My confidence begins to abate somewhat; but our messenger, who has just come from the office, says the letters are not yet all distributed. My prize may be delayed until the last drawings of the lottery are reached. But I shall stop writing here until the question is settled.

It is now Thursday morning. On coming to the office and asking for letters, I found I was not in luck, and that I was to have nothing this time for my heavy investments in cherished expectations but a *blank*—a disappointment to which I hope I shall not again be subjected. Still, I cannot believe that you and Emma both failed to write. You must have written, and the letter has miscarried. On receiving a letter from me you must write *immediately* or it may not reach New York in season for the steamer. Start your letters from Wilmington, if possible, the day after you receive mine. Don't wait till mine are received before beginning to write; have the great body of yours written in advance, and then there will be no mistake. I shall continue to write you every week, unless prevented by pressure of business; but if *well* shall always write once a week to you or Mr. Davenport or some one else in the village. You cannot get a letter to me oftener than once a fortnight, and I hope and believe you will not fail to write on each of the 26 opportunities which the year will afford.

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*One side of this little pocket pincushion was covered with a scrap of the cloth from which a jacket was made which he was accustomed to see on the little boy.

You are now, I suppose, in the depths of a northern winter. Here we have the climate of the south of Europe, mild as May in Vermont, not warm enough to debilitate in the least nor cool enough to require a fire. So far as climate is concerned, it is the most delightful country on the face of the globe.

The United States Steamer Susquehanna has been here, but has now left for New York. She was connected with the expedition to Japan, and when she left Asia the Macedonia was in the Chinese seas. As near as I can ascertain, when she returns it will be by this port.

And now, good bye. In a week I shall *speak* to you again. Kiss the dear children all round on my account, and give my warm regards to father and mother and Mr. D. How are things in the pig-pen and at the barn?

From your affectionate husband,

O. L. Shafter.

A letter of educational counsel addressed to his daughter Emma when she was a girl of 12 contains so much that is sound and sensible for the direction of any young student of any period that the following quotation is made from it:

Extracts from Letter.

Oscar L. Shafter to his daughter Emma.

San Francisco, Dec. 5, 1855.

For the present you should devote the better portion of your time to the three elementary branches. You must try, and try *hard*, to understand everything in these branches respectively, as you go along. This is the more especially important in Grammar and Arithmetic. And to get this understanding, you will have to rely in the main upon your own efforts. Don't forget that. Teachers can do no more than aid you in this matter; it must be accomplished, if at all, by yourself alone.

And now what progress do you make in your music? I have little fear about that, for you are fond of music, and will therefore not be likely to neglect it. But you must remember that "music" comprehends something more than singing and playing. Music is a science, having its methods and rules, and unless you are fully acquainted with them, and sing and play with reference to them, it will be quite impossible for you to sing and play well.

You will remember what I have said to you on the subject of reading. The silly stories with which the newspapers are nowadays filled, and the more silly novels bound in yellow covers, with which the country is flooded, are calculated only to dissipate the mind and demoralize the heart. Avoid them all, my child, now and hereafter, but more particularly, avoid the yellow covered literature named.

I pointed out to you a course of reading before I left home, which I desired you to enter upon immediately. With my earnest wishes in that matter I doubt not you have complied. You will find historical reading greatly instructive, and you will soon become so much interested in it that the accruing pleasure will be infinitely greater than any that can be offered by false and extravagant romance. In the sober truth of history you will find things more wonderful than in the wildest creations of fiction, and a rich harvest of valuable knowledge that will stand you in stead in all the relations of your after life. In short, you must avail yourself diligently of all the opportunities you enjoy, to acquire every kind of knowledge that will be serviceable to yourself and others hereafter.

Your affectionate father,

O. L. Shafter.

From Diary.

December 16, 1854.

I have been reading today the life of Lord Mansfield, Chief Justice of the Court of Kings Bench, England. He was indeed a great judge and a great man, and in his long judicial career did more to perfect the Law by adapting it to the phases presented by an improved civilization than can be claimed for any other Common Law Judge. What has particularly interested me is his method of study, adopted when he first became a student in the Inner Temple, and adhered to through life. He began with the most general principles of the Science of Law, and from these proceeded to principles that were relatively subordinate to them, and so on through series after series of dependent truths until the final details had been examined and exhausted. In other words, he began with a genera, from them proceeded to an examination of the different species included in each genus, and from them to individual truths of which those species were severally constituted. It must be obvious to every one that the memory must be most powerfully aided by this method of study. The principles of law, though in one sense their name is legion, yet all bear relation to each other, and taken together they form a system, and if once mastered in their *relations to each other,* so long as one of these principles is retained by the mind, the principle of association gives signal aid in recalling the others. From the predisposition of my own mind, all from a habit acquired at school, I began and have for the last 15 years prosecuted all my professional study on the plan above named, and though my memory is not remarkably tenacious, I have had no difficulty in remembering all the details of legal truth when once acquired that can be brought within the scope of legal principles. When I read a new decision, I always ask myself, "whereabouts in the system of the Law does the result ascertained by the case belong?" In the twinkling of an eye its appropriate place is at once suggested to my thought, and I put it in its place, and then I stop and *look at it there,* and I find by experience that it is very apt to *stay there* until I want it, and without watching, too. If my son should conclude to study law, when the time shall come for him to select a profession, and if I should not then be alive to advise him as to the best mode of study, these remarks, if they come under his observation, will suggest to him the views entertained by his father on that subject. Should he become a lawyer I hope he will become a great one, profoundly versed in the principles of his profession, well instructed in the cases wherein those principles have been applied, and whereby they are illustrated; familiar with the literature of the Law, and the master of its history, presenting as it does an embodiment of all true historical results. Laws are but the conclusions to which all preceding human experience has brought the generation by whom they are made. I trust also that my boy will not only be a great lawyer, but a good one, which is the same as saying I trust he will be a good man, free from all chicanery, honest in his dealings with Court and jury, and perfectly truthful in all of his relations to his clients. There is no calling in which a strict obedience to the maxim that "honesty is the best policy" is more available. A rogue of an attorney is sure to reveal himself in his true character and then there comes at once from all honest men a revelation of disgust, aversion, and contempt, and no matter what may be his learning or his talents, a withdrawal of business inevitably follows the withdrawal of confidence.

A Letter to Little Hugh.

SAN FRANCISCO, Dec. 18, 1854.

MY DEAR SON:

When I wrote by the last steamer to your Mother, I told her that by the next mail I should write to you, and I am now about to do as I promised. I find it the more pleasant to talk to you in this way, for the reason that there are no little boys here for me to play with or talk to. I think there are not many boys here, or if there are, their mothers keep them at home, I must believe, for but very few indeed are seen in the streets. The men who have left their homes and come out to this far off country, have left their little children behind them to do chores and look after things in their absence. But I have no doubt but that they often think about them day and night, and want very much to see them. There is one little boy, however, who belongs to the office, with whom I am very well acquainted, and to whom I have become very much attached. He is about ten years old, I should think, and is a very smart and a very good boy. His business is to run on errands. Every morning when I come to the office I find Joseph there ready for any work in his line. He is always neatly dressed, his hair combed smooth, and his shoes ever shine like glass bottles. He is a boy too of very pleasant manners; he always makes a respectful bow to the gentlemen who hire him, and to myself, when we come to the office, and bids us each "good morning." But besides all this, and over and above it all, he is good to his mother and his little brothers and sisters. His mother is a French lady and is a widow. Joseph's father is dead. She is very poor, and wouldn't have enough for herself and her children to eat, drink and wear, did not Joseph help her. He saves all the money he earns and carries it home, and gives it to his mother and in that way she and her family get along quite comfortably. Don't you see that he *must* be a good boy when he is so good to his mother and to his brothers and sisters? I think further that he always speaks the truth—at least I never knew him to do otherwise than tell it just as it is. If Joseph continues to do and to behave as well as he does now, there can be little doubt but that he will grow up to be a very wise, good and worthy man. Joseph speaks French and English too; he learned both languages together. I asked him the other day if French was not his mother tongue? He said, "No, sir, but it is my *mother's* tongue." And he laughed very heartily, and I confess I was a good deal tickled myself. When your mother or Emma write me next, you must tell me how you like Joseph.

I sent you a paper by the last mail filled full of all sorts of pictures showing how people earn their bread by digging gold way back among the mountains. The men who dig the gold are called miners, and when they get their pockets filled with gold, they come down to this city and sell it to men here who are called bankers, who give them money for it; and then the good miners send their money home to their wives and children, and the wicked miners go off and spend *their* money in gambling and for rum. And then they get drunk on their rum, and fight in the streets, and sometimes kill each other in their drunken brawls. And then the sheriffs take them and put them into dark prisons, and then they are taken to court and are tried for murder, and if found guilty they are taken out and hung by their necks until they are dead. By studying those pictures you will get a very good idea of how the miners live and carry on their business. I hope you will keep the paper very carefully until I come home.

I suppose you are going to school this winter and learning to spell and read. Do you wallow through snow to and from school and grow hardy and tough? Do you play with your sled,—you, Mary and Emma, drawing one another about in the yard, and sliding down hill? I suppose that the *drawing* began with the coming of the snow, and the sliding will commence as soon as the *crust* shall come, I suppose.

There is no snow here. The weather is as mild as summer. It is very rare that I have a fire in my room. The reason why it is warmer than in Wilmington is that San Francisco is nearer the sun, and because it lies on the shore of the great Pacific Ocean. Emma, who I supose knows all about geography by this time, will explain this matter to you further. As the weather is so warm here, we have now grapes, peas and all kinds of vegetables growing in the gardens, and have them to eat every day at dinner. Still, in the morning and in the evening it is quite cool, and a greatcoat I find at those hours to be quite comfortable. You, I suppose, find your greatcoat quite comfortable at all hours of the day.

The people who have come here from Vermont, and who have been here some time, say, notwithstanding the weather is so very pleasant, that they suffer after all as much from the cold here as they used to at home. But I have been here so short a time that the chilly weather in the morning and evening does not as yet trouble me much. But if I stay here a great while, I suppose I shall become as *tender* as others. If the weather is more pleasant here than it is in Wilmington, Wilmington, on the other hand, is not near as much bothered with *dogs* as San Francisco. The city is full of dogs, and there is not a dog here but what is a *barking* dog. They don't make much disturbance in the daytime, but after bedtime it is bow!

wow! wow! all night long. Some of them bark bass, some bark treble, and some counter, and every whelp, big and little, tries to out-yell all the others. For a while after I came here I couldn't sleep very well on account of the noise they made, but now I have got so used to it, it operates on me like a lullaby on your little sister.

Talking of little Alice, how is the little dear? I have not seen a single baby since I have been here. Does the little girl grow? And if so, does she grow pretty? Can she laugh? Can she crow? Does she know you from the others yet? Does she look like little (Alice) Maud? You must be very good to her, and if she lives, as we all hope she will, she will soon be old enough to play with you as did her little sister that is dead and gone. You must tell your mother the next time she writes to answer all these questions about the baby, and you must also have her write something for you to your father. I hope you remember your promise to take care of your father when he gets to be an old man. You are all the son your father and mother have got, and they hope that you will live with them and be kind to them when their heads have become grey with many years. They take care of you and your sisters now, while you are young, and you and they will not fail to remember and care for them when time shall have done its work on them and you.

There are fires here about every night. The bells ring, and the engines turn out and go rattle-ti-bang through the streets. The boys—what there are of them—run hooting and yelling beside them, and the dogs join in the race and in the racket. A few nights ago there was a great fire, and two little children were burned to death.

Well, my letter is most done,—the first I ever wrote to you; but if I live and have the use of my fingers it shall not be the last. When you get to be a little older, you will answer my letters, and oh! how much I shall be pleased to receive them, particularly the *first* one. You must keep this letter. It is not very interesting, I know, but then it is my first to you. Put it in your drawer and keep it, and when you have another from me, put it with the other, and so on, and you soon will have a great pile of them perhaps, and when you get to be a man, and your father is no longer with you, you will consider them as a great treasure to you, for the reason that they were written by him.

Give my love to your sisters and tell them I want to see them. I often look at your pictures. Do you ever look at mine? I have no doubt you do, if it isn't so very handsome. Kiss your mother for

Your affectionate father,

O. L. SHAFTER.

Diary.

DECEMBER 22, 1854.

The true life is the life of *the heart*. The head is nothing, its ambitions, its achievements even, bring no abiding content; their highest successes are in this behalf but barren victories whose proudest trophies soon cease to minister even to the *pride* of him who won them. True enjoyment in this, as in the future life, consists alone in the indulgences of pure and chastened affection.

DECEMBER 27, 1854.

I am still at work, hammer and tongs. I have no leisure and I want none. Business, occupation, constant and unremitting, is with me a moral and mental necessity. I feel here entirely freed from the disinclination to severe and protracted intellectual exertion that had beset me for some time before I left home. There I had almost ceased to find any stimulus in the practice of my profession. The familiarity that I had attained with the routine of questions ordinarily litigated, and perhaps the firmly established position that I had secured at our County Bar, and perhaps may I say among the lawyers of Vermont, left me with no incentive to exertion except a simple, unaided desire for farther excellence. Here it is as it was when my professional career commenced: the residue of competence is to be acquired here, if at all, and the whole of character and name among this people is to be made as from the beginning. There is a definite object before me, and to be secured in the shortest possible time. The importance of that object, the anxiety I feel and must continue to feel for reunion with my family, have aroused in me a resolution that knows no flinching, and awakened an enthusiasm in study and professional endeavor that is a marvel even to myself. The lawyers here are free livers and positively dissipated in a majority of instances, and by consequence are not students. Sharp, quick, adroit, and voluble, many of them are, but as for being lawyers, in the New England sense of the term, they are not. If I could keep my end up with the first lawyers of my State when at home, why should I doubt as to the rank I shall in the end attain to here? A sum in the Rule of Three.

Oscar L. Shafter to his Wife.

San Francisco, December 30, 1854.

Dear Sarah:

Severe and unremitted occupation is my method of keeping all bad thoughts at bay. Of occupation I have enough, and could have yet more if my powers of endurance were greater than they are. I have seen as yet very little of the town, or of its social life. I have in fact hardly deviated from my regular line of travel between the office and my boarding place so far as to explore the geography of the streets immediately adjacent. The other night, however, in company with Mr. Billings I took a turn around among the gambling saloons. There are a great many of them in the City, and of all grades, from the low dark cellar where the highest stakes are picayunes, to the gorgeous palace where a fortune is hazarded on the turn of a die. The first establishment we visited was the El Dorado, situated on the Plaza or open Square in the center of the City. The large room on the first floor was filled with a crowd of people, there as a general thing obviously for the transaction of business. They were gathered around fifteen or twenty gambling tables at which as many different games were in progress: ecarte at one, monte at another, roulette at a third, and so on. The merchant from his counting house, the artisan from his shop, the professional man from his office, the miner from the canyons and gulches of the mountains, the bacchanal from his orgies, and the debauchee from other haunts more hellish still, the vagrant from the streets, and I don't know but the Divine from his pulpit; all classes of society, in short, seemed to be represented in this pandemonium. A band of music from an elevated dais was discoursing national airs that have nerved the hearts of heroes when battling for their country, or melodies associated in all minds with simple virtuous content within the walls of home. It was a study to watch the countenances of the eager gamesters as the play proceeded, and the games moved rapidly. Not a word was uttered except by those who presided at the several tables, and they spoke only to make the regular calls of the game. Cheeks flushed at one moment with eager hope, wild and pallid with despair the next! Now and then you would hear a low, half-uttered imprecation, and the next turn of the game would be followed perhaps by a muttered howl of gratified avarice and revenge; the worst passions of degraded men were stirred to their depths and of all the revolting exhibitions of human depravity that I ever witnessed it was the worst. We went to four or five of these gateways to destruction, licensed all of them by the City Council under the public law, and then left for home with a disgust and horror so profound that I shall feel little inclined to enter them again.

The weather so far has been very pleasant here. With the exception of a slight sprinkle some six weeks since, there has been no rain since my arrival until today, and it is falling now in limited quantities only. Business in the mines is pretty much at a standstill for want of water, and has been for two or three months, and the suspension of gold washing there has stagnated business everywhere in the State. If rain does not come soon, and in large quantities, it is thought there will be a general crash among the merchants and bankers in this City and elsewhere. Rain is as indispensable to gold-digging here as it is to a grist mill in August on a small stream in Vermont. But lawyers are not dependent on the rain, or the sunshine, or the dews, anywhere; the prosperity of others advances their business, and the embarrassments and bankruptcies of others do not diminish it. The Nicaragua Express Line has given notice that they will carry letters no longer, and the regular mail leaves but once a fortnight.

The steamer is announced at last! I shall stop until I receive the letters that I expect so confidently.

SUNDAY MORNING, Dec. 31, 1854.

This morning I got up earlier than usual, and soon after going below the office boy came to the house with yours and Emma's of the 19th of November and Emma's of the 29th. I was most gratified to hear from you and that you were all well. I was somewhat startled at your narrow escape from a fire laying the house in ashes at the incoming of a Vermont winter, and am most grateful that we have been spared that calamity. It has occurred to me that the stove in the parlor had better be moved out into the room further than it has usually stood, or the same mischief may sooner or later be done there. . . . . How is it with the wood? I left directions with Mr. D. and also with your father about that, and if my directions have been acted on, as I presume they have been, you will have a shed full of good dry fuel for the winter and ensuing summer.

I am pleased to hear that Emma has divided her time, allotting so much to music, so much to reading, and another portion to *work*—a matter quite as important, in my judgment, as either of the others. It is very desirable that she and Mary, and will be as much so for little Alice when she is old enough, should learn all about housekeeping, how to cook and cook well, and all about making and mending. If they try to learn, and are good girls, they can be of great service to you, and a great comfort to me, though I am so far distant from them. The distance does not diminish my love for them, or my deep interest in them and in their conduct, and to hear that they are studious, industrious and obedient, cheers me as much, and if possible more, in my exile, than it would if I was with them at home.

I am also pleased that my son takes so much interest in his father's business. At this rate we shall not be dependent much longer upon other people for boys to do our chores and look after things, for we shall have one of our own. I suppose that Hugh has had his wheelbarrow laid up nicely for the winter, and that he has taken care that the hoes, the rakes, the shovels, chains and all other tools have been taken care of. He must keep his eyes open and if he sees anything out of place he must put it away where it belongs at once. I wrote him a letter by the last steamer, and it will be received, if nothing happens, about a week in advance of this, and I hope he will find something in it to encourage him in his efforts to speak the truth always, and in his endeavors to be an honest, frank and manly little boy.

Now kiss all the children for me and remember me to Mr. D.

Your affectionate husband,

O. L. SHAFTER.

From Diary.

DECEMBER 31, 1854.

The steamer arrived last night, bringing two letters from home! My family is well, and comfortably situated, and comfortably conditioned. There are many men here in California who have families in the Atlantic States dependent upon their own unaided exertions for the necessaries of life. Happily for them and for me, with my own absent household it is widely different: for which may I and they be duly grateful.

How much one's *tone* depends upon the circumstances in which he is placed! To men of a somewhat easy and sluggish temperament like myself, motives from without are necessary to arouse them to effort, and to hold them to it, and as cowards in the presence of danger from which they cannot fly become heroes, so under the pressure of extraneous inducements indolence and inanity are often supplanted by intense mental activity and the higher modes of moral and intellectual life.

JANUARY 1, 1855.

Today is the first of the New Year. It has very generally been observed here as a holiday. Not having been bred to its

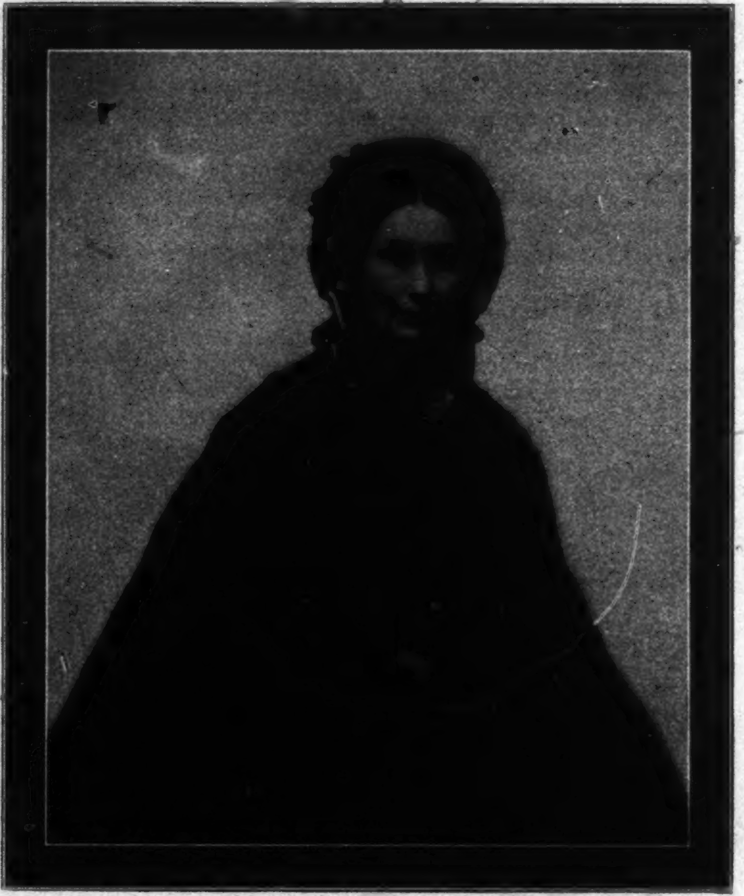

PLATE IV. Sarah Riddle Shafter, wife of Oscar Lovell Shafter
from old Daguerreotype

observance, and having no associations connected with the day, I have felt no inclination to mingle with the festivities or sociabilities even with which its coming has been distinguished by others, so I have kept in the office during the day, and am now spending my evening there. The rainy season, so long delayed, has at last fairly set in, and the hearts of all classes of business men, but more especially the hearts of the miners will be greatly rejoiced. Without rains, and copious ones, the business of gold-washing stands still.

I have been reading Thierry's History of the Norman Conquerors, and my conclusion is that it has never been *written before.* There has been heretofore a prevailing inclination among Historians to assimilate the political and social conditions of the peoples whose history they have undertaken to write to their political and social conditions at the time the books were being written. In the past they have been eager to avoid seeing anything not visible in the present, and in studying the present to close their eyes upon its highest manifestations unless their counterparts could be detected among the petrifactions of some earlier age. The reason is obvious. Historians heretofore, as a general thing, have written for the eye of Monarchs, and privileged classes, for Courts, and for those who frequent them and feed on the patronage which they dispense. They have so fashioned and colored their narratives as would best flatter the prejudices and subserve the interests of men in power, to keep the people where they are, beneath, and rulers where they are, *above them.* Hence the Historians of England have failed to notice, or to give proper prominence to many things that distinguish the earlier from the later period. In their ungovernable bias to invest all the institutions of their own times with the holiness of age, they have made the veriest novelties of today antediluvian, and have been sedulous to prove that all exploded or seriously modified ideas of half-forgotten times constitute all the real verities of the present. Opposed to change, they deny that change has ever taken place. Opposed to progress, they question if the Nations have made any. Fearing both, they gainsay the truth of history, lest their irrational fears should be realized and the highest and most cherished hopes of man be fulfilled.

The English of today are to a great extent a homogeneous people; the antagonisms of race, of religion, laws, customs, literature and tradition, are pretty much at an end. Queen Victoria "by the Grace of God" rules over an United Church, over a peerage secure in its titles and possessions, and over a devoted and loyal people, who no longer know among themselves the distinctions of "Norman," "Saxon," "Dane," "Pict," "Scot," or "Cambrian." Race no longer rises up against race, rival dynasties no longer strive for dominion, the wars of the Roses are ended, the Stuarts,—first Monarchs, then "pretenders,"—their line is extinct. The fires kindled by religious intolerance have gone out, the Stake has ceased to claim its victims.

This is the tone and aspect of the present. Is it not most natural that titled or privileged conservatism should find a solace for its pride in the belief that the present is all storied in the past? And is its conclusion an unwise one when it holds that that belief, if it becomes general, will do much to stay the hand of popular innovation hereafter?

Thierry, a Frenchman, has not written history with any reference to the accomplishment of such an end, however. In his judgment the Conquest by Duke William was something more than mere *"acquisition"* or conquest in its feudal sense; he regards it as one of the most decisive *subjugations* of one Nation by another that can be found in all the records of general history. Not accomplished by a single battle, or in a single reign, but by battles and sieges, stormings and sackings, banishments and deaths without number, filling the history of the country for several ages after the death of Harold on the field of Hastings. All political disturbances, all social disquiets, all popular movements for greater freedom, and all endeavor by power and privilege to counteract them, were mere incidents that attended this work of subjugation in its progress, and it was not until it had been fully accomplished that the subjugated race, by reason of its own unsurpassed vitalities and by the force of numbers, began slowly and imperceptibly to recover the ground that it had lost. This was quietly yet surely effected under the silent but always invincible laws of social life. The men of Saxon lineage were strong and brave, and the Saxon woman was beautiful. In domestic strifes and on many a foreign field, the bowmen of the conquered race had often turned the tide of battle in favor of the Norman King, and the Norman chivalry, drawn by that instinct which always unites the brave, had learned to know the Saxon Knights as brothers in arms, and had taught themselves to believe that the highest meed of successful valor was to be found not more in the Norman than in the beaming glances of Saxon womanhood. Under the operation of these social influences the asperities of race gradually subsided, and even that remembrance which is the last to be forgotten, the *remembrance of wrong*, faded in the dalliances of rustic or courtly love, and was finally lost in the holier endearments of conjugal and parental ties. With this amalgamation of races and ideas commences the true *"present"* of English history.

JANUARY 5, 1855.

In all time the race has been merciful of its benefactors, the patriot dead have always been remembered, and honored by the living. The ancients placed the heroes who had fought and died for Country among the demi-gods; in the middle ages men made eminent by patriotic achievement or sacrifices were placed on the roll of saints, the highest and holiest meed which could be conferred in the judgment of a superstitious age. In modern times the reward of patriotic or philanthropic endeavor is to be enrolled among the wise and good by the suffrage of an intelligent and grateful people.

The antipathies of race were perhaps never more strongly developed than in the conquering Normans, and the Saxon English whom they had subjugated. No epithet was too vile, no injustice too atrocious, when deep-seated aversion sought for an appropriate indulgence. And still these nations were of the same blood and the same religion, having to a great extent the same institutions and laws, and the same stamp and grade of civilization. But one race was conqueror, and the other conquered; the one was master, the other was enslaved; there was, in short, an inequality *in their social conditions* and in *that* is to be found the cause of the bitter contempt and abiding scorn of the Norman, and of the sullen, vengeful hate that festered in the heart of his Saxon thrall. And so it is even yet in all cases of supposed natural antipathy of man to man, or of men to men; the prejudice lies not in nature, but in antagonism, which always has its origin in injustice.

Oscar L. Shafter to his Wife.

SAN FRANCISCO, January 14, 1855.

DEAR SARAH:

The steamer John L. Stephens arrived last night with the mails from Panama. It was 11 o'clock when I heard her signal guns from towards the sea, announcing to thousands of expectant hearts that another invoice of tidings from distant homes was about to be delivered. And as the loud report came booming over the waters, and fell upon the ears of the exiles, what were the thoughts that were awakened, think you? I judge of theirs by my own. They were thoughts of hope, and thoughts of fear, hope of weal, and dread of all possible woe,—sickness,—death, and of more mishaps without number. And fancy then "spread wide her magical pinions," and indulged itself in long and vagrant flights, having no intelligent track or bourne, like the course of a bird of passage that has lost its way in storm and darkness, and flies and flies till, dizzy with ever increasing uncertainty, it sinks on wavering wings exhausted to the earth.

I sat at my table for an hour after the swift rider of the Pacific had announced her coming, lost in a perfect labyrinth of these chaotic bewrayings, and then, when the clock was on the stroke of midnight I left the office and started for what I call my home. When I arrived at my lodgings, the family had all retired and the customary candle had burnt itself out in the socket. I however knew the way to my room, and followed it without any more serious miscarriage than blundering against a table and barking my shins against the sharp edges of a heavy mahogany chair. I slept like a log, as usual, until roused at 8 o'clock in the morning by a rap at the front door. I knew very well that it was a rap by the messenger from the office with letters, so I jumped out of bed, bounded into my pants, and then by a rapid and adroit bolt to the right achieved my dressing gown and tumbled headlong down stairs, rushed to the front door and was rewarded for my hurry and pains by finding two letters to my address, one from Emma and yourself, and one from Mr. D. I ran them over in a moment with a rapid eye to find out simply if all was well with you and then countermarched slowly back to my room.

It is Sunday, and though the great Dr. Scott from New Orleans preaches a dedication sermon in a new and gorgeous church recently erected, still I shall pass the day where I am and in writing to you and Mr. D., I think, or somebody else at home.

The letter that I wrote to my son on the 22nd of December has not yet reached you, but will at farthest in 2 or 3 days. Tell Hugh that the great whales I saw on the Pacific "spurted water out of their heads just as he has seen them in pictures," and also that the miners live and dig gold just as they are represented in the pictures contained in the paper that I sent him. On this assurance I think he will have great confidence in the general truth of pictures hereafter. As to Hugh's *keeping his mittens until I come home,* I have my doubts about the policy of his doing that. I have no doubt that they are as nice as Emma represents, and I should like very well to see them or anything else that belongs to him, but in Vermont this cold winter, mittens are *mittens,* I know. They are to be worn and not kept, and I should regret very much to have him go with cold hands for the sake of preserving his mittens for me to look at on my return. Tell him then not to spare his mittens or his *boots* either for his father's gratification.

In the matter of Emma's staying at home this winter, I defer entirely to your judgment. Very likely it will be as well, and may be better, than it would be if she should go to school. I say it may be better, and so it may be, if she properly improves her time. She can learn much about cooking and housekeeping generally, and then she must have a good deal of leisure for reading and for writing good long letters to her father and other relatives and friends, not forgetting her grandfather Shafter, whose heart will be cheered and whose youth will be almost renewed by letters from her. Then she will have time also for writing at length in her diary from day to day. As she reads the historical and other works which I have heretofore designated, it would be very profitable for her to write out at length reflections which the books have excited in her own mind. Such reflections would find an appropriate place in her Diary. In reading, she should attend to Chronology, or dates; it is only by a careful attention to them that the true relation of historical events can be determined and retained. I trust that her time this winter, though spent at home, will not be spent unprofitably, but that she will acquire valuable accessions of homely truths, and make perceptible progress in substantial intellectual culture also.

I am pleased that Mr. Ranney is so well disposed to stand to the duties connected with his pastoral relation and with that other relation that has so long existed between him and myself as personal friends. During the continuance of your grass widowhood, a bereavement more pregnant with the *quizzical* than any other one ill that flesh is heir to, I trust that he and his very excellent wife will not fail to exercise all the rights of ancient and ever abiding friendship, to a performance of all its duties. Whatever they may be, they need no exhortation. As to showing my letters, I leave that of course entirely to your judgment and discretion. They were written for you alone and my children. There may be now and then a "slopping over," which though not altogether valueless to you or them, might sound like mere sentimentality to strangers or third persons.

I am surprised that Emma should have allowed herself to be disappointed by the fact that the baby weighed *but* 16 pounds. Sixteen pounds I conceive to be a very respectable avoirdupois for a baby but 4 months old, and who for 3 out of that 4 has labored under the disadvantage of having no father. But for that drawback quite likely she might have come up to the 20 pound notch whereat her over sanguine sister seems to have placed her.

Don't stint yourself in anything that you may want or desire for yourself or the children. I am hearty as a buck, though I continue to work like a beaver. Did I not do this, I soon should be buried under a mass of papers. Love to all the children and friends.

Your aff. husband,
O. L. Shafter.

From Diary.

January 21, 1855.

The Nicaragua steamer "Cortes" arrived last night, but has brought but little news. There seems however to be a general breakdown in progress among business men throughout the East; great reduction of wages; dismissal of workmen in all the industrial establishments of every grade, and a growing amount of distress and positive suffering among the poor, aided by the severities of a Northern winter. These periodical revulsions with which the Atlantic States have so long been afflicted, have their origin in my judgment in the credit system, and of that system the most pernicious feature, the *causa causans* is the *Banks*. Strange indeed it is that those States do not learn wisdom by their bitter experience!

January 25, 1855.

There was never such weather as we are now enjoying. We are in midwinter, but the earth is green with an ever renewed vegetation; the gardens around the city are filled with glowing promise, the hills and meadows are enameled with flowers, and all the air is balm. This country was made for delights, and were not the charm and tie of *association* wanting, it appears to me that I would here live and die. In half a century from this, and most probably in half of that time, roads of every grade will have been built, churches founded, and schools of every grade established and endowed. The "primitive age" through which all communities have to pass will have transpired, and a higher civilization, with all its attendant moralities, humanities, and delicate refinements, will have set in. Art in all its departments will then lend its embellishments to social and individual life. There will then be intelligence too that knows no caste, freedom that knows no slave, justice that tolerates no wrong, and the sublimity of the sea, the wealth and beauty of earth, the grandeur of the heavens, and all the accidents of a perfect clime, will join in alliance to give a local habitation and a name to that terrestrial paradise hitherto unknown, except in the poet's dream.

JANUARY 26, 1855.

There is a *thing* put into my hands by my friends, it is a *book*. I have never read it, nor have I ever seen it before. It at first engages my attention as a material thing merely. In that regard I examine its exterior, its binding and lettering and gilding. I open it and the paper and the typography become subjects of inquiry and thought. So far, even, what a vast range of knowledge is needful in order that I may understand, appreciate and relish the naked facts that I have learned. The art of book-binding since books were first known; the progress of that art through a long succession of ages terminating in the present. Printing in its first discovery or invention, printing in all the modes and styles that have since obtained, the names of the printers by whom they have been originated or practiced; printing as connected with the Presses with which it has been carried on in different Nations, and in the different times, and all the wonderful improvements that have been made in the Press considered as a means. These and a thousand other matters are needful for me to know in order that I may comprehend what I have already observed *in their great import*.

Thought as it first arose in the mind of the inventor; its slow and labored development in his toiling brain until the ideal that he was struggling for stood revealed in matured conception. Then the protracted and wearisome endeavor to realize that conception in the material forms; the conflict with obstacles never ending, or if ended still ever to be renewed; the fierce exhausting strife with human ignorance and human passions; the discouragements of penury, the alternations of hope and despair, and the frequent encounters of each with the other; the *whole biography* of the wonderful men who in spite of such tremendous odds at last achieved for the ages in which they lived the great triumphs of modern civilization; how their achievements acted upon other minds to stimulate them to like endeavor; the effects produced by their inventions and discoveries upon the times in which they lived and the mightier consequences that were developed in ages following; these, yes all this great context if *known to me* will invest with marvelous interest, I ween, the Book considered simply as a material thing. To fully compass it in *that* regard, of how very little of general history can I afford to be ignorant.

But to understand and appreciate and relish the contents of the Book as I peruse them, the whole range of history, biography, science, art, and general literature should be as familiar to me as early lessons. The new production of human thought stands related to all that thought has originated, or combined before, and the threads the author has spun he has woven in a thousand nameless and marvelous methods into the mighty woof of previously associated ideas.

Oscar L. Shafter to his daughter Emma.

San Francisco, January 29, 1855.

My Dear Daughter:

I have received your letter by the steamer of to-day. It is just one month old. I have received all the letters that have been addressed to me from home—five in all. As none have miscarried, then, I hope you will feel encouraged, if encouragement be indeed necessary, to continue to write by every mail steamer, an event which happens on the 5th and 20th of every month. I have also received a letter from father to-day bearing even date with yours, and both have pleased and cheered me greatly. He acknowledges the receipt of the letter that I inadvertently sent to Wilmington, and which you forwarded so promptly to him, accompanied, as he says, with a very nice little letter of your own. You do very right to keep up a correspondence with your father's father, for his own children are greatly scattered and *theirs* must, so far as practicable, stand in their stead and discharge their duties.

How glad I am to hear that you are getting on so comfortably and cozily at home! No matter, I ween, if the thermometer stands, as you say, at 28 degrees below zero. The house is tight, the woodshed full of wood I suppose, there is pork in the barrel, meal in the tub, wool on your backs, leather on your feet, and resignation, cheerfulness and hope in all your hearts. Let the rains beat and the winds blow then, and all other mere accidents of a Vermont winter do their worst in the way of endeavor in their line. Still if sickness and death but spare you, if despondency and repinings do not vainly and irreverently affect you, the true "lights of home," though they may be dimmed by your loving father's absence, will not be extinguished. They will survive that absence and will only burn the brighter after its conclusion. May God in his goodness grant that fruition!

Your letter not alone assures me of your contentment at home, but gratifies me more particularly by a disclosure of the sources from which it flows. Your pleasures are home pleasures, fireside enjoyments, such as are rarely to be found outside of the charmed circle of New England life. The smiles and nameless assiduities of maternal love, the assistance and sympathy of the elder daughter in the details of household labor, and when that labor is over for the day, the magic of books, the spell of music, the rarer charm of light or sober converse, relating to the past, the passing, and to that which the future promises or threatens, but which is not as yet revealed;—the names and history of the dead and lost; the names and welfare of the living and absent; the prattle of little children sitting in little chairs with faces reddened by the genial warmth of glowing fires, the little boy playing schoolmaster to his own mother and sisters, spelling book in hand,—the smiles and crowing of the little babe, youngest born in the household band; and pervading all and hallowing all, concord that knows no jar, confidence that knows no distrust, and that mutual love that cannot die! These, these, my dear little daughter, are the fruitful sources of the valued enjoyments that you are realizing in the home that your father built. Do all that you can to render that home a happy one, happier even than it is. Your own good conduct, now and hereafter, will have much, very much to do in promoting peace of mind within its walls.

I was pleased to know that you had a merry Christmas, and that Santa Claus was so impartial in the distribution of his annual gifts. The kindhearted old saint did not even forget little Alice. I wonder how the jolly old fellow came to know there was such a little girl in existence; she is but five months old, and how did her name come on his muster roll? And while he forgot not the babe, I see that he also, contrary to his general rule, made a gift to the mother. Now if I had been at home, he would have given her nothing, as I fully believe, or me either. I conclude that he made her a gift therefore in a mere freak of compassion.

As to whether I shall return at the end of the year or not, I can only say that at this present I intend to return when my year is up. I left home with that intent and I have not yet changed it. Whether I shall change it or not depends altogether upon how I feel about it when the year closes. This is not very definite to be sure, but it is as much so as my own frame of mind on the subject will admit, now.

I am constantly engaged, and the importance of the business intrusted to me increases the severity of labor, for it adds to the *anxiety* which always accompanies a just sense of responsibility. But I continue buoyant and hopeful and resolved, for those I love are always in my thoughts and connect themselves with all my taskwork.

Your wishes, so filially indulged and so filially expressed, that we shall all again be happily reunited, finds, my dear child, an echo in my own heart and in my own unswerving hopes. Your words of cheer are also very grateful, for they are without purchase, and are to me therefore beyond price. A word of earnest promise from unpractised childhood is worth more than volumes of what may after all be but selfish commendation bestowed by others.

You have heard and read a great deal about the "rainy season." That season set in here 2 or 3 months ago, but during that time we have had what would be called in the East a long drought; there has, in fact, been but 2 or 3 days of rain during the whole time. And the old Californians tell me that in the rainiest specimens of the rainy season, the rains are occasional only.

Last evening we had a lawyer here from the City of Mexico, one who it is said stands at the head of his profession in that city. He is a young man of very elegant manners, but as he did not speak English I could not form any opinion of him except upon the representations of others. The conquered people of this country are entirely reconciled to the rule of the conquerors.

My sheet is about filled, but there is yet room for a special message to your mother. It is short and therefore soon told. It is simply a message of *love*. Will the daughter deliver it from the father to the mother? Hugh has received my letter to him before this, I suppose. Tell me how he likes the idea of receiving letters from San Francisco, addressed to *himself, postage paid,* and the thing done up with all the honors! I am glad that he is getting on so well, with his learning,* and that he is imparting of his abundance to your mother and to you. Tell little Mary that she must fulfill your promise that she will write me "a little something" soon. Kiss and snuggle little Alice on my account, and beat it into her as soon as possible that she is not a half orphan. Good bye.

O. L. SHAFTER.

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*Alluding to the account sent him of little Hugh's fancy for playing "schoolmaster" to his mother and sister during the long winter evenings.

With the death, years since, of every person named in this and subsequent letters referring to the history of early litigation in San Francisco, it would seem that the seal of confidence, enjoined at the time they were written, may be considered as released, and free quotation be made of statements set down by a man of such high reliability as Mr. Shafter. Moreover, in justice to him it should be borne in mind always that rehearsals of his triumphs were made in no spirit of self-adulation, but frankly and truthfully, to cheer and gratify those vitally interested in his success, who with natural misgivings had seen him abandon a well established practice in New England, to commit himself to the uncertainties of practice among strangers in a faraway community. That Mr. Shafter himself suffered dreary forebodings and misgivings at first, these records plainly reveal, and his quiet exultation upon finding himself equal to the task set before him, may be likened to the honest joy of the athlete who measures his strength or agility against formidable opponents, and rejoices to find himself capable of outstripping them in fair and open contest.

Oscar L. Shafter to his Father.

SAN FRANCISCO, Jan'y 30, 1855.

DEAR FATHER . . . . .

. . . . . You inquire as to my success and assure me that whatever I tell you under that head will be regarded as confidential. With that guaranty I shall speak freely. Day before yesterday I was deputed by my employers to appear in a commercial case where $85,000 was at stake. Baldwin, a distinguished lawyer from Alabama, was with me; and young Emmet, a son of Thos. Addis Emmet of New York, and General Williams from the same city and a lawyer of great distinction here and there, were on the other side. The questions presented were questions of law and were of a character entirely foreign to Vermont law. All the other gentlemen had been bred in commercial communities. Baldwin insisted upon opening on our side and I yielded to him. He talked about two hours and made a very learned and able argument. He was followed by Emmet, and he by Williams on the same side. I closed the discussion in a speech of three-quarters of an hour. The courtroom was filled with lawyers throughout the protracted debate of five hours, unbroken by adjournment. When it was over I gathered up my papers and came straight back to the office. In a moment Park came in and told me that it was said by all in the courtroom that I had made the greatest law argument that had ever been made in California. Immediately after this Billings made his appearance looking particularly good natured and genial, and not only repeated the same thing, but told me that Baldwin said that my argument was worthy of the Supreme Court of the United States. I certainly was not expecting any such commendations, for though I was satisfied in my own mind that I had talked to the point and somewhat at least to the purpose, yet I had not comforted my own mind at all with the idea that I had gone beyond California standards even.

Well, yesterday was another eventful day with me, for I then had the honor of making the acquaintance of General Foote and of crossing weapons with him—Senator Foote from Mississippi, aforetime known as "hangman Foote." There was $30,000 involved in the case, and it had been in contest for the last three weeks in one of the City courts in one form and another. I feared him, but I fear him no longer. He is talkative but shallow, a man of no research, his thoughts are vagrant and he cannot talk on a line. He is vain, tautological and bombastic. I can name a round half dozen lawyers in Windham county who would overmatch him as a lawyer. He has qualities that make him available in the arena of partisan warfare, but none that fit him for the forum. I satisfied myself of his true measure at an early stage of the discussion, and laid myself alongside of him with as much freedom and assurance as though the newspapers had not made him notorious.

A week since I tried that Folsom case, about which I wrote you, unaided and alone. Park, Beachy and Billings were absent at Sacramento, electioneering. Halleck had gone to Mexico. Brosnan, and the celebrated Colonel Baker from Illinois, were for the plaintiff. Baker was in the Mexican War and since that has been in Congress. He has been considered the best jury advocate in this State. It was a heavy case,—testimony voluminous and complicated, the case bristling like a hatchet with points of law, and the adversary counsel determined to make the most of Park's absence. I argued the case, of course, and to the entire acceptance of my client. I had one and only one advantage over them, and that was I knew more law than both of them put together, and I used that advantage to the utmost against them and with telling effect upon their case. But the great strike that I made in that trial was in the cross examination of one of the plaintiff's witnesses. He swore that while the fight was in progress he saw Folsom standing in a dark alley, wrapt in a cloak, apparently watching the course of the affray. The witness was a new man, kept carefully in reserve and brought unexpectedly upon the stand, and his testimony, unless met in some way, was decisive, and if it could not be discredited out of his own mouth it would stand, for we had no other means to reach it. I went at him, and at the end of a two hours' cross examination the perjurer stood so far revealed that Baker rose and in open Court *withdrew the witness*. I have been told that the cross examination was the most *"awful"* ever heard in a California court. I can only say it was successful.

I know one thing, and that is that I can do here what I could not do at home. I have here but one single aim; from that there is nothing to divert my attention, and furthermore there is nothing that has power over me so far as even to solicit it—a kind of savagerious feeling has taken possession of me that makes me as fearless and bold as a pirate. All my *sentient* nature is boxed up, under lock and key, and has no relations to daily life here, as it had at home. I feel like one on a tramp, having nothing to do but to tramp until the tramp is over, or like a soldier in battle keyed to the last pitch of pluck by the controlling exigencies of the hour.

But enough of this! I am satisfied that I am becoming very rapidly, in the public judgment, the brains of the concern. I *may* return at the end of the year, after all. I shall then be worth all that any man ought to be, and I am followed with a half developed conviction that I do wrong in separating myself from my family. But we shall see. If Jim can go to the U. S. Senate, I think he ought not to decline. It is not certain that there will be any opening for him here immediately. Peachy is engineering for the U. S. Senate as successor to Gwin. Should he succeed, the firm will probably be dissolved, and I could then on the reorganization of it secure a position for Jim. Still, it is not clear in my own mind that it would be advisable for him to be a Senator even, just now. Should he be, it would of course involve a sacrifice of his business where he is, and a surrender of all chances that may await him here. He must decide, if the alternative should be presented to him. . . . .

California will not be divided, nor will slavery be introduced. There are many who desire it, many who have not ceased to scheme for it and to labor for it, but the die is cast, the tide begins already to turn. Southern men and Southern ideas begin to wane. Sensible men begin to know and feel that the State has nothing to hope from the South, and at last comprehend that its good will be best subserved by bringing it into harmony with the liberal policy and free progressive spirit of the North. In 25 years, if no ill betide, the "primitive age" through which all new communities have to pass, will have fully transpired as to California, and then, if there is a terrestrial paradise on the face of the globe, it will be found here. Then a higher civilization with all its attendant refinements and humanities will have fully set in. All the air is balm. The land was made for delights. It is a land of *mountains,* and their auguries are always of good, and it enjoys *all* the accidents of a perfect clime. . . . .

Write.

Your son,

O. L. Shafter.

OSCAR LOVELL SHAFTER

From Diary.

FEBRUARY 6, 1855.

This morning I am going into the trial Junis vs. Senator, a case of collision between two ships in this harbor in the year 1850. The case has been tried nine times, and the end is not yet; it is a heavy case and I hope it will not suffer in my hands. I have made all the preparations possible, and must patiently but bravely bide the fortune of war.

(Later): The jury did not agree.

FEBRUARY 9, 1855.

There is great stagnation in business here; trade is dull; laborers are here in numbers but they are more numerous than jobs; the rate of interest is high; taxes are exorbitant; immigration has pretty much ceased, and the rainy season is emphatically dry. In consequence, the business of gold-washing in the mountains is brought completely to a stand, real estate is depreciating rapidly, but it is still high enough to allow the good work of depreciation to go on for a long time to come. Improvidence and unbounded prodigality in public and private life have hitherto been the order of the day in commercial circles, and among business men generally I understand that the work of retrenchment and reform has been commenced, and the good old maxims of industry and frugality are coming into vogue, but those who tabernacle in and around Montgomery Block live and spend and waste like archdukes. The time may come when even they will lavish less gold on their backs and bellies.

SAN FRANCISCO, Feb. 14, 1855.

MR. E. GORHAM JR.

MY DEAR SIR:

It is the "Sabbath of the Lord"—but His rights in it are not fully recognized here—There are a dozen churches, more or less, that have been erected for public worship, and they are all open to-day, still but a very small portion of the population will be found within their consecrated walls. The shops are open for the transaction of business, the streets are filled with a gay multitude of fashionable idlers, and to-night the Theatres will be resorted to for the amusement and excitement they promise. Some progress however has been made in the work of securing the better observance of "holy time"—for by ordinance the public gambling hells and other houses that take hold on death, are required to keep their *outside doors shut* on the Sabbath. If you were here you would be greatly struck with the low standard of religious life. You may take a New England professor, the one who among all your acquaintances is the loosest in the handle, set him down here and he would pass muster for a miracle of piety. There are a half dozen church members on my list of acquaintances who are quite constant in their observance of ordinances, that drink habitually and freely, play billiards to a late hour on every day and night in the week and on Saturday nights play until about meeting time Sunday morning. Ministers, too, as far as I can learn, are like members. I have often heard the remark made of this Divine or the other: "He is a right good fellow." "He'll carry a bottle of wine under his belt any time." "He is not stuck up with any old-world notions, I can tell you." But notwithstanding this state of things in our California Zion, the tendency is in the right direction, and in a few years parsons and people will have made such progress that they will be in conformity to even *my* standards of holy living.

It is a *beautiful* day, however its sanctities may be disregarded. The rainy season has been most distressingly dry, and great stagnation in business is the consequence. Yesterday however it rained in good earnest, cheering the hearts of men of all classes, particularly the hearts of the miners whose business for the last three months has been delayed for want of water. To-day not a cloud is to be seen, the sun is out in all its glory, the air is pure and balmy as in a May morning in Vermont, and after finishing this letter I intend to recreate myself by a stroll through the town and its environs. Speaking of those environs, they embrace all the points of perfect landscape scenery. I have said this or something like it in almost every letter I have written home, but these scenes are constantly before me, and as I am never weary of admiring them, so I am never weary of commending them. There is a great deal of historic interest, too, connected with many of the localities adjacent to the city. Two miles to the west towards the ocean stands the *presidio*, an old Spanish fort near the Golden Gate, and now tenanted by a small garrison of United States' soldiers. In the old time before the Conquest the Mexican government kept 15 or 20 ragamuffins there under a military officer with a title altogether too large for his business. Two miles to the south stands the "Mission." The original pioneers in the settlement of California were Jesuit priests from Mexico, and their object was the conversion and civilization of the Indian population. The mission above referred to was founded in the year 1776, and was one of the most prosperous of a number founded at different points in the country. There are thousands and thousands of acres, surrounding the mission buildings, of the most beautiful grazing land in the world, and before the missions were plundered and broken up by the Revolutionary factions that were from time to time in the ascendant in Mexico, these pastures were covered with vast herds of cattle, mules and horses belonging to the fathers. A large Indian population was collected around the mission buildings, and over these converted Indians the priests exercised, in a patriarchal way, unlimited influence and authority. They tended the herds, they tilled the lands, and gathered the abundant harvests into ample barns; there was little foreign commerce to make the priests cruel masters by making them first rapacious of gain. Every morning the bells rang out from the tower of the church in the wilderness, calling the simple worshippers to matins, and every evening calling them to vespers. The priests were many of them men of great learning, acquired often in the best schools in Spain, and there is no proof found in any written history of this country of any abuse on their part of the absolute and irresponsible authority they exercised over the natives. All tradition, too, acquits them of any such abuse. Old Californians, whose memory goes back to those times, speak of the missionaries and their administration in terms of unbounded praise. Their hospitality was without stint, and was extended to men of all nations in their wanderings through the country, without any limit in time. The old church is there still, but the priests that ministered and the dusky neophytes that worshipped at its altars are scattered. One old monk alone remains, to ring the bells that still swing in the old tower and receive at the church door such alms as the stranger may see fit to give, that masses may still be said for the forgotten and the dead.

The future of this State, I mean the great future, is unmistakable: but for some years to come, the State has got to suffer, and severely too, for the consequences of its own undue precocity. Everything has been overdone that relates to superstructure, and everything has been neglected that relates to foundation. The result is that the State is top-heavy. Its cities are too numerous and too large. There are too many merchants for the miners, too many consumers for the producers. Immigration has pretty much ceased, and with this the increased rates of fare from New York have had much to do. In the heedlessness of the earlier time matters of general concern were sadly neglected, and the upshot of that was that all public officers were defaulters or the public revenues, where they were not stolen outright, were deplorably wasted and misapplied, and now every city is weighed down with its public debt, and the State even reels and staggers under its burthens. Its current expenses even are not defrayed now otherwise than by promises to pay in the shape of warrants on the Treasury, and they are hawked about to brokers at a discount of 30%. Real estate in this city continues to depreciate, and those having much foresight predict that it will continue to do so for some time to come. A great deal of property still held at high prices is entirely unproductive to its owners, and with the enormous taxes and the high rates of interest is fast eating itself up. When the lowest point of depression has been reached and the tide begins to turn, great fortunes will again be made in an hour by those who are lucky enough to take the tide as it begins to flood.

There is a great deal of want and suffering here,—I mean in the city,—for lack of employment, and among those, too, who never knew what it was to have a wish ungratified before they left their homes in the East. Some instances of that kind have come to my notice of a most touching character. There is a great deal of frankness and cordiality in social intercourse here, and friend spends money upon his friend as freely as he would spend it upon himself, but this is after all a mere surface appearance. There was never a community where *self* exalted its horn so much in fact as it does here. Men talk with their fellows in the streets but for a purpose; they bow and shake hands and laugh and smile, but ever with reference to a project, and he who should conclude that it was the result of a feeling of cordiality in exuberance, would in my judgment be very much mistaken. It is all the result of refined calculation relating to personal gain or personal advancement as unerringly as the needle relates to the pole.

I am getting on very pleasantly and comfortably. I remember all my friends. Tell them to remember me. Give my regards to the managing partner of the firm of "Shafter & Davenport," and my most cordial respects to all of your household and name. Will you also do me the favor to answer this? In your careerings about the county you must have picked up a great many things that will interest me. Let me have them, and

Oblige yours truly,

O. L. Shafter.

(Mr. E. Gorham, Jr., Wilmington, Vermont.)

Oscar L. Shafter to his Wife.

San Francisco, Feb. 14, 1855.

My Dear Wife:

The steamer has not arrived, and is now overdue. The mail will leave day after tomorrow, and with my customary foresight in the matter of writing to you by every mail, I have concluded to begin now, for fear if I should wait longer I might in the end be too late.

Little has transpired since my last letter, personal to myself, that would interest you. Work, work, work, makes up the whole routine of my daily life. The only episodes I know are the fitful opportunities afforded me for reminiscences of mingled pleasure and pain by the few brief moments of leisure, which I can now and then snatch from the hurry and din of business. And those opportunities are never suffered to pass unimproved. I have your letters and daguerreotypes locked up in my table drawer, the key of which I always carry in my pocket, and when the moment of leisure comes, I take out the pictures or the letters, and settling back in my chair con over the one or gaze on the others, until the eye swims and the head becomes dizzy; and then they are returned carefully and silently to their hiding place; the key is turned and stowed snugly and safely in the bottom of my pocket until another like opportunity presents itself.

I have not been weighed since my arrival, but I think my Pacific avoirdupois is greater than my Atlantic. I reason altogether from my waist bands; they certainly have not contracted; most probably they have stretched some; anyhow I fill them in their largest diameter, and not with bloat, but with *meat* as solid and healthy as ever clove to the bones of a mortal man.

There is no one here to mend my clothes carefully once a week, whether they require it or not; so, as fast as things give out or holes come in them, I throw them into my trunk and invest in new. You perceive that though 10,000 miles away, I propose to have my occasional mending done at home notwithstanding. I continue to feed well and to sleep well, and my health was never better. As for spirits, mine were never more buoyant. It was 3 months ago yesterday since my engagement commenced. So one-fourth of my year has already transpired and the remaining three-fourths will be very soon added to it. Time would be intolerable if it should cease to *fly*.

Yesterday, after business hours were over, I treated myself to the recreation of a stroll through the town and its suburbs. Away out on the edge of the city I met an Episcopal clergyman who came out here with me, bringing his wife and little girl with him. I got very well and almost intimately acquainted with them on the passage, and was very much pleased with the unexpected meeting. The gentleman, I found, was settled at Stockton and down here on a visit to a friend. He asked me in to see them. I went with them and spent the most agreeable half hour I have known since my arrival in California. These people have not realized all their expectations, but did not say they were disappointed. Neither of them uttered any repinings or expressed an intention or a wish to return, but still I could see that after a three months' trial of the country, the land continued to be a strange one to them and that they still felt like strangers in it. Their little girl had thriven amazingly, and I snuggled and kissed her in remembrance of my own little ones at home.

Things are in a somewhat critical condition at present—great scarcity of money in a land abounding with gold, and business generally at a standstill, where there is any amount of work to be done, and any number of willing hands eager to do it. Embarrassments in the East have arrested the flow of capital from that quarter, and in connection with the high rates of fare have seriously reduced the current immigration. The hearts of men who had made up their minds to know no land hereafter but this begin to fail them, and should not the times change before long, the departures will in my opinion be more numerous than the arrivals. Still, in the long run, the country will prosper beyond all peradventure. But there is a question of time involved in the matter, and with many the solution thereof grievously tarries.

How are you getting on at home? Keeping up your old acquaintances, I hope, and making them more intimate and dear I hope also. Your old and fast friends and mine I doubt not very generally remember what Mr. R. called "the widows and the orphans." I hope this because I know you would properly appreciate such attentions. All the hospitalities of our household you will of course "duly observe and keep"—for though absent I am so far present in the spirit that every guest and visitor and every one who makes a neighborly call on you seems like a guest of mine.

Yesterday an old acquaintance of mine at the Cambridge Law School gave me a call. His name is Fabens, and when I knew him in 1837 he was regarded as an excellent student and young man of singular promise. He arrived by the last steamer, and will engage in the practice of the Law. He has taken an office in our building and on the same floor with us. We were somewhat intimate in the East, and that intimacy I propose to revive. It is a slow and a very grievous job for an utter stranger here to get into practice, but I shall aid my old friend so far as may be possible to push his professional fortunes.

Mr. Park, his wife, daughter, and "servant" will leave on their visit to the East on the 1st or at farthest by the middle of April. The note of preparation is already sounded. The family is to be reduced so that the business of *fixing* may go forward without embarrassment. I am about to look for another boarding place. Mr. Park has requested me this evening to board with a Mrs. French, with whom he and his family boarded before they went to housekeeping. His sister, who is keeping a school here, as I believe I have before stated to you, has gone there to board, and he desires me to go there and look after her during his contemplated absence. If I can make satisfactory arrangements with Mrs. F. very likely I shall do as he requests.

How is the baby? A few nights since, as I was reading a beautiful poem of Edgar A. Poe's, I came across a passage of exceeding beauty and pathetic beyond measure, which in the twinkling of an eye brought the baby's little namesakes before me, that are slumbering in the churchyard. Time was forgotten, distance was transcended, and the grave yielded up for a moment the cherished dead. The little girls were again with me. I saw them as they were in life, except as they came to me together, and were clothed with the brighter radiance of heaven. The heart almost stood still as with closed eyes and suspended breath I dwelt upon and delayed the grateful illusion. But it tarried not long. The dream was soon over, and the painful reality of wasting and bitter bereavement was again present with me.

How is my son, and my elder daughters? I ask you though I shall get the answers before you will get the question. How is it with them? How is it? There is great emphasis in my thought as I put this question, too great to be expressed by any signs or symbols that I can make with my pen. Tell them to be and to continue to be kind and good to each other, to their mother and to all. Remember and write by every mail. Tell the children and believe yourself that my heart is with them and you.

Ever your affectionate husband,

O. L. Shafter.

A comparison of dates between the preceding letter and the one which follows offers strange food for reflection. To Mr. Shafter and his wife there had been born, in succession, three little daughters, two of whom had passed away in infancy, the name "Alice" having been bestowed upon first one, then the other, and afterwards upon a third baby girl, less than three months old when he left home. This repetition of the name had been according to a singular old New England custom. Did the spirit of the third little one, set free from its earthly tenement and joining the bright spirits of the babes who had gone before, take flight to the lonely and heartsore father on the far shore of the continent, tarrying a brief moment to unseal his vision to the radiance of the Hereafter, before winging its flight to the Eternal arms?

That to the father there came in that moment the prescience of loss, is indicated by the pointed manner in which he refrains from inquiring about the babe or sending any message to her, although it is evident that the impression afterwards wore away.

Letter from Emma Shafter to her father, not received by him in San Francisco until March 17th.

WILMINGTON, Vt., Feb. 13, 1855.

MY DEAR FATHER:

Our little Allie is dead. What a change in a few days! Mother went down to the (photographer's) saloon and had her photograph taken the day she was buried. The funeral was here, at our house. The coffin was placed on the centre table, as was (Alice) Maudy's, and the sofa was where it was then. And we sat upon it with Grandpa and Grandma Riddle. Grandpa and Grandma Shafter were here, with Uncle Hall and his wife. It was hard to part with her. Father, it would have been a comfort for us and for you, too, to have been here. But, Father, we did everything that could be done for her. Hugh came up to her when she was laying cold and stiff, and said, see her little bare arms. This miniature is very natural, and looks exactly as she did when she was asleep. It will be a great comfort to you. We hope it will not get lost, for we shall want to see it again. Mother and I are going to write you a long letter by the next mail, she says.

Good bye, Father.

From your affectionate Daughter,

EMMA L. SHAFTER.

SAN FRANCISCO, Feb. 19, 1855.

MY DEAR WIFE:

From the Presidio in company with a friend I struck off toward the "Lone Mountain Cemetery." This habitation of the dead belongs to a private association and is to be fitted up after the plan of Mount Auburn and Greenwood. After a smart walk of about a mile, we arrived on the ground. It is among the sand hills that have been formed by the action of the winds. The sand has all been borne from the beach upon which it has been thrown by the sea in vast quantities for ages and ages past, and under the mastery of the winds it has been thrown into a system of hillocks and hills that I cannot describe better than by applying to them the term *billow.*

They are generally covered with a low chaparral of scrub oaks so dense as to be all but impenetrable and about as high as one's shoulder. Through the chaparral paths have been opened in all directions, and when lots have been taken the brush has been removed, leaving a few only of the more comely trees by way of ornament. The number of interments so far has been quite limited. The Cemetery, indeed, was not opened for them until about 6 months ago, but the great congregation destined to slumber in its bosom has already begun to be gathered, and the living here are already preparing the sepulchres in which they are at last to lie down. There are many beautiful valleys and nooks among the hills, protected by the surrounding ridges and the thick wood with which they are covered, from the winds that have grown strong by their unresisted career across the Pacific, and in these coveted spots the first graves have been made. I spent an hour or two in wandering over the grounds, regarding with delighted eyes the flowers with which the quick sod was teeming, listening to the familiar notes of the robins that had sought the jungles of chaparral therein to rear their young, and to the croaking of a raven that had lit upon the top of a high post and stood there battling with the wind for its foothold. Then, from the distance, came the loud and continued roar of the waves breaking upon the rocky coast. The Lone Mountain, a high, isolated peak, bounds the Cemetery on the south, and adds to the prevailing barrenness and solitude the impressive contribution of its own peculiar desolation.

From the Cemetery we went about three miles in a southeast direction to the Old Mission. I went into the old church, built of sun-dried bricks, about 75 years ago. The construction is very inartificial and so is the finish, outside and in. There are a great many pictures on the walls, and though some have much merit as works of art, yet they generally were prepared to please the uninstructed taste of the native Indians. The decorations of the High Altar were obviously selected and arranged with entire reference to the same purpose. There is a paling running across the church, dividing the Altar from the main body of the building and separating the worshipers from the officiating priests. When I went in there was a Sabbath School in progress. Two classes were reciting, or rather being taught orally to say the "Lord's Prayer." One little Spanish boy pronounced "trespasses" tres*passes*, laying the accent on the second syllable, and continued to do it, after being repeatedly corrected by his tutor, a young Irish priest. The holy man at length got quite wrathy and called the little fellow all sorts of bad names. "Spalpeen" and "a little devil" were the least objectionable.

From the sombre old church I strayed out into the Catholic burying ground adjoining. There is about an acre in the enclosure; it is a graveyard in a flower garden. I never saw anything so beautiful. There was little of storied marble, there were but few traces of the sculptor's art to be seen; the monuments were almost all of wood, but tastefully fashioned, and neatly painted and lettered in half the languages of the globe. Still the flowers, ever dying, still ever renewed, gave the spot an interest and charm with which all the resources of mere art would fail to invest it. While I was there a lady dressed in black came into the yard unattended. With a hurried step she sought a little grave, surrounded with a white paling and covered with a profusion of flowers. She knelt beside the grave and wept as though her heart were breaking. To me the bereaved mother stood revealed. Her sorrow was too hallowed for a stranger to gaze upon, and with moistened eye I turned and left the spot. A half hour's omnibus ride brought me back again to the City, refreshed and invigorated by my ramble.

Today I have changed my boarding place. I have got into very pleasant quarters, I think. The single dinner I have made certainly promises good things in store and yet to come. There are about 40 boarders; the family is a private one, the house one of the best residences in the city and very genteelly furnished. I am taken in and done for at a charge of about $20 per week. Col. Balie Peyton is there; he is a distinguished man from the South. However, his success here as a lawyer has been quite limited. Miss Park is at the same place.

There is a piano in the parlor and I hope that my spirits will now and then be gladdened with music.

FEBRUARY 21, 1855.

You will see by recurring to the date of this letter that I began it on the 19th. It is now the 21st, and the steamer does not leave until the 1st of March. So you see that I have taken time by the forelock, and if I have leisure the chances are that you will have a long letter to read.

There is an almost overwhelming stagnation in business here. Business men are loud in their complaints. There is no water to wash gold with, and without it gold cannot be procured. Mining is the interest upon which all other interests are built, and when that suffers, they all suffer. When that ends, no other interest can survive. The depreciation in real estate has been enormous, and the depreciation is still in progress; the rates of interest are high, and the prevailing declension in profits has at last begun to affect the resources of the lawyers even. Fares from New York are so high that those whom the State most needs are compelled to stay at home, and then the monetary embarrassments in the East have had their share of influence in breeding like embarrassments here. The prodigality of the people here has been unbounded. There is not a city in the world where costly outlay and luxuriousness has been so general as here. Not only professional men and merchants, but those engaged in all departments of common labor have rioted in excesses absolutely Babylonish. Art and taste have been taxed to the utmost that appetite and passion might first be aroused and then sated. A hodcarrier or hand-cart man could not dine except at a French restaurant and upon not less than six courses, moistening his clay at that with a bottle of claret, and another of champagne of the choicest brands. They have nothing of the cheap "rotgut" of the Atlantic States here, no indeed! The bootblack at the street corner drinks nothing poorer than brandy imported from France direct, and that costs here $10 per gallon. His cigars cost him $150 per thousand, and he has one in his mouth from morning till night, or, if he uses a pipe, it is of Prussian or Austrian sea-foam* and costs him $75, and in it he burns tobacco such as is used by the Grand Turk. But I can already see a change and a marked one, too. Four French Cafes have been closed within the last fortnight, the theatres are all but deserted, there is less of horse-breaking in the streets, a great falling off in feminine cavorting on the pavement during fashionable hours, and friend doesn't fill the belly and wet the whistle of friend as often as when I arrived. The fact is that *empty pockets* are following a peculiar set of consequences everywhere. It is quite unnecessary to state what they are,—they will occur to you. Well, the affliction of empty pockets has at last fallen upon riotous livers of all grades here, and it will redound in the end greatly to their good, for it will compel them to practice the good old-fashioned virtues of industry and frugality, to which 99/100 of them were bred.

FEBRUARY 22, 1855.

It is now Feb. 22, '55. I had written to the end of the last sentence last evening about 9 o'clock, when Park came in and announced that the great banking house of Page, Bacon & Co.† was about to fail and that one of the firm had applied to him to bring a suit against his associates for a dissolution, account, and appointment of a receiver.

I fell to work and in two hours the papers were ready, but I was up all night engaged in the adjustment of collateral matters. This morning the papers are to be served, and when the thing is done and is known, it will crush the very life of the city out of it. The business of these bankers is extended all over the State, and half of the floating capital of this town is in their hands on deposit; but they are going down, and their failure will prove more disastrous to the city than any of the fires with which it has sometimes been desolated. The first effect will be to accelerate the downward tendencies of real estate. Land in this city is, in my judgment, to be very cheap.

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*Meerschaum.

†This somewhat memorable case inspired a witty couplet that has been quoted far and wide. During the progress of the trial, a great book, belonging to Adams & Co., was found floating in the waters of the bay, where it had been flung, evidently, to destroy the evidence it contained. In the office of the Receiver,—General Naglee,—Messrs. Edward Stanly, Park, Baker and Wilson, of counsel for both sides, met to inspect its contents together. The volume was so immense that it was laid open on the floor, and the four counsel knelt around it. Referring, in his argument, to the spectacle they presented, Governor Stanly improvised:

"Sin, for a fleeting season, bade the State farewell,
And Satan shrieked as on their knees four lawyers fell."

Today is the birthday of Washington, and the whole City, or that part of it made up of Montgomery street, is filled with people who are gazing, and with great delight apparently, upon the fire companies who are out in full force and in full dress, each with its apparatus and distinctive banner and accompanied with a band of music; they are now marching, rank by rank, into the capacious portals of the Metropolitan Theatre, where they are to be addressed by Col. Baker of Illinois. The day is delightful and the spectacle quite imposing.

FEBRUARY 23, 1855.

This morning the City, already staggering under the failure of Page, Bacon & Co., was told that the great house of Adams & Co., Wells, Fargo & Co., had suspended. A smart run was immediately begun upon all the remaining banks and was kept up during the day. It is estimated that a million of dollars has been paid out by them today; tomorrow the work of depletion will be renewed. The City has been in a perfect hubbub all day; the streets filled with excited multitudes and the police out to guard the suspended banks and their owners against popular violence. The merchants are beginning to break, and the faces of all having property to lose are troubled with fear. The fact is that the millionaires of S. F. from the start, even until now, have been of the mushroom order to no inconsiderable extent. Their wealth has consisted of figures by which the false and exaggerated values put upon real estate have been represented. Practically, their unimproved and unproductive lots are now nothing but a curse, devouring themselves and their owners by the taxes which they invite. Let the work of demolition go on, say I, until all the hollow pomp of unreal wealth is over, and the boundless and idiotic prodigality of all classes is ended by that only adequate means—*necessity*. In the last 48 hours I have slept but eight. For at least 36 hours of that time I have been seated at my table drawing complaints to be filed in Court and other papers connected with the bringing of actions, and, throughout, have drafted the originals faster than the copying clerk could copy them.

Well, last night I slept like a log, and on getting up, feel as clear as a quill. I have had another active day and most laborious, and in the distance I can see nothing but *work*. What is more, I do not fear it nor shrink from it; it will occupy my thoughts as well as give me a chance to earn my money.

FEBRUARY 28, 1855.

It is now the 28th day of Feb., '55. It has rained generally for the last two days, and the saddened and despairing hearts of thousands are measurably rallied and encouraged thereby. Things are in a bad plight here from a business point of view, and though all sorts of devices are resorted to for the purpose of reinstating credit, demolished and shattered as it is, yet I think that all effort on that behalf will prove abortive. There is but one course and that is to let the evil develop its own cure, and that cure, desperate and dishonorable as it will be, will be found in a general repudiation of all public debts. To that woful consummation the thing will come at last. It is a mere question of time, I think, or at least fear.

Before closing this letter permit me to say that I have taken an account of my shirts and find that I have but *five*. My impressions are that when I left home I had about twice the number, but as to that I am far from being certain. Will you relieve me of my doubts on this grave subject?*

Before closing, I must remember my children. Tell Emma and Mary that your commendations of them and their conduct were read with a gratification that they can hardly understand or appreciate. You say that Emma is a great help to you in your cares and most pleasant company for you in your solitude, and that Mary does all she can to aid and relieve you. Tell them that their father is satisfied that they are both good little girls, which is the highest praise that they can receive or claim even at the hands of their father.

And Hugh you say is a great consolation to you. Well, tell him he is a great consolation to me also, and that if he continues to be a good boy and always speaks the truth, he will ever continue to be a consolation and a hope to us both. I thanked Mr. Billings in his name for the paper containing the pretty pictures that delighted, and I hope instructed him, and say to him that I will some of these days write him again.

And now good bye. I am well and smart down to this present, though all the time at work like a beaver. My novitiate is pretty much over; I am so far acquainted with the local laws, and with the practice of the Courts, that I can transact all the current business of the office with entire facility. I am a great deal in Court, and more out of it—in the office. I do none of the outdoor racing and running, but am kept steadily pulling in the collar, or, as the case may be, throwing my weight into the opposite end of the harness.

My dear, dear wife, good bye again. Write—write—write! and believe me your most attached husband,

O. L. Shafter.

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*Only those familiar with the conditions of the period when these letters were written, can appreciate how very serious was this question of *shirts*. There were no sewing machines in those days, and no shirt factories or haberdashers where such articles, made of fine material and finished in the manner to which he had been accustomed, could be bought. During the long months of preparation, before Mr. Shafter left home, the devoted wife had made him a dozen and more shirts, with bosoms of fine linen, put together with the fine, invisible stitches in which the housewives of that day took pride, and with buttonholes exquisitely wrought by hand. The disappearance of more than half this supply, in less than five months, was a little domestic tragedy.

Diary.

MARCH 7, 1855.

"In the midst of life we are in death." This truth has been brought home to my mind most impressively by an event of recent occurrence.

On the 4th inst. I left San Francisco at about 6 o'clock in the evening on a trip to Marin County to attend the trials of five cases that were pending in the District Court of that county. Marin lies north of San Francisco and on the opposite side of the Bay. The voyage was to be made in a small sail boat of about three tons burthen. At six o'clock I went on board. B. R. Bucklew, our client, owned and commanded the boat. The crew was composed of two men, I the only passenger.

We put off with a fair wind and favorable tide, with the expectation of reaching the ranch of Mr. Bucklew in three hours, it being about fifteen miles distant. The boat went merrily over the waves, darting and bounding like a thing of life. I had anticipated that this flight into the country over the waters would yield me a great deal of pleasure. After having been penned up in the city for almost four months, with my faculties taxed all the while to the utmost, it is not singular that I should have dwelt upon this promised relaxation with something of boyish delight.

Night soon overtook us, and I turned in "all standing," as the sailors say, that is, with all my clothes on, shoes, overcoat and hat included. The boat was decked over forward and aft; the center was open. Bucklew had ordered a new mattress and blankets for me under the forward deck, and into this nest I crawled at about seven o'clock in the evening. The deck was just high enough to allow me to sit up in bed without striking my head against the timbers. There was considerable freight on board, and I had a Worcester plough and sundry sections of stovepipe for bed fellows, they being stowed alongside of my bunk.

I soon dropped asleep, and, as I have since ascertained, had slept about an hour when I was suddenly awakened by a cry from Bucklew, "Look out! Steamer, Sheer! You will run us down."

In an instant I was out of my hole; the steamer had already struck the bows of our boat, stove them partially, whirled the boat alongside by the force of the collision, and was shooting past us with the speed of a race horse. My first thought was that we should go under the steamer's wheel, and I sprang from the boat as far as I could, off into the water.

From the time I heard the cry until I made the plunge, it may have been five seconds. As soon as I struck the water I whirled to grab the gunwale of the boat, and just then received a severe blow on the side of my face from a fragment of the boom which the steamer caught and broke in two as she was rushing past us. The blow partially stunned me, but not enough to bewilder me any. With the assistance of one of the men I got on board. The steamer was stopped in about 100 yards, and we were hailed by her. Bucklew made a hasty examination of the boat, and returned the hail, telling the steamer to go ahead. All that saved us from destruction was the unusual lowness of the steamer's guard. But for that our boat would have gone under the wheel and have been dashed to atoms in a moment. I might possibly have escaped even in that event, but whether I would or would not, depends upon whether we were forward of the wheel at the time I sprang into the water.

The boat we found had been badly sprained, and her seams opened so far that she leaked a pailful in three minutes. The boom was broken and one of the rowlocks was lost, so that to perform the residue of the voyage we had no reliance but upon a single oar. The tide was already beginning to turn against us. One of the men was put at the oar, while the other had his hands full baling. Bucklew steered, and I stripped off all my clothing and crawled back into my bunk. I found that the blankets were partially wet with the water that the boat had shipped at the time of the collision. I lay there for nine mortal hours "chewing the cud of sweet and bitter fancies." My face was badly swollen from the effects of the blow I had received, my feet were cold, and I could not so adjust my dark blankets as to prevent a shifting, crawling shiver from running upward from my cold feet and off at the top of my head. In about three hours this exposure developed inflammation of the kidneys and revived at once the terrible nervous agonies that I experienced about 18 months ago, but I remembered I was in California, and grinned and bore it in silence.

About five o'clock in the morning we ran the boat ashore some two miles from Bucklew's home. He sent one of the hands to the house with my clothing to put a-drying at once, and with orders to bring down a team. The man was gone about an hour and a half, when he returned with a span of horses and a dry suit for me. In a few moments we were in the wagon and in half an hour we were in the hospitable mansion of Mr. Bucklew, enjoying the comfort of a roaring fire. I left my hat in the Bay, and from the landing to the house I figured in a demolished tarpaulin that I found in the boat. It was nine o'clock and it was at that hour the Court was to open, and Bucklew's cases were the first on the docket, so he started off immediately for San Rafael, the County Seat, with the understanding that he was to apply for an attorney until the next day.

He returned about 11 o'clock with the intelligence that the Court had opened the trial of his first and principal case when he arrived, and that the adversary counsel had pretty much concluded his speech, which was on a motion to dissolve an injunction. Bucklew made an affidavit disclosing our misadventures, and my own particular illness, and the Court concluded to postpone until the next morning, March 6. I had a bad day, a good deal of fever, no appetite, and intense pains in the region of the kidneys; instead of getting better I was getting worse, and by ten o'clock at night dismissed all hope of being able to appear in Court the next day. I then directed Bucklew to produce his papers, so that I might examine them, and determine what course was best to pursue. I had left on this mission to Marin on a few hours' notice, and had had no time to ascertain the character of the cases to be tried. On looking into the papers I found that his cases were not ready for trial; that they had been unskillfully brought, and had been shabbily managed, and a continuance, instead of being a calamity to him, was the only thing that would save him. For two hours thereafter I was engaged in dictating affidavits for a general continuance of all the cases, and motions and notices of new trials and appeals, in the event that the continuance should be denied. Then I went to bed and suffered until morning. Bucklew went to the Court House after breakfast, and the Court continued all the cases but two, and they were adjourned to be heard before the Judge at Chambers on Monday next at San Francisco.

It is now Wednesday the 7th and here I am still at the home of Mr. Bucklew. Mrs. B. is an excellent woman and a capital nurse. She has treated me with very great attention. I am now improving, and tomorrow we shall probably return to the city. Bucklew is one of the fortunate adventurers, and is supposed to be worth several hundred thousand dollars. His ranch here cost him $55,000 in cash. It contains 18 square miles and occupies a valley running from the shore of the bay back among the mountains. This valley is drained by a beautiful mountain brook, and is of wonderful fertility and beauty.

I have had another escape from death almost miraculous, and it is the third of a series of three. I trust I am not destitute of gratitude to the Giver of all good for this last deliverance; grateful on my own account, for life is a thing that I yet cherish; grateful, doubly grateful, on account of my wife and babes. In thinking of my escape I think not of myself, but my thoughts are busy and blinded by the ever-recurring contemplation of the woe that would have befallen my loved ones had a death so sudden, sharp and horrible, befallen me. I shall give them no account of it until I return home. It would be neither judicious nor right to do otherwise.

Oscar L. Shafter to his Wife.

San Francisco, March 10, 1855.

My Dear Wife:

By the steamer Sonora I received on the 2nd instant yours and Emma's letters, enclosing one from Mary and another from my son. Mary's letter and Hugh's were small, but though short they were *sweet* to me. How grateful it is to a man situated as I am to know that wife and children love him in his exile, and pray for his welfare and his safe return. Such assurance at once softens the heart and strengthens it, excites courage and ennobles it. Your letter and Emma's both gave me great comfort, and they have been read and read again and again. Details, however minute in themselves, about family or local matters, fasten the attention almost beyond belief. *You* I doubt not can understand, however, the wonderful eagerness and zest with which that description of tidings is devoured. The dear little baby is then thriving and improving, looks like the last little one that bore the same name, and has eyes like her father! Well, though she may never have occasion to value herself very much on that score, yet certain it is that she is not by reason of it valued any the less by me. Tell Mary that her letter was most gladly received. I had no difficulty in reading it, and tell her that I saw *her* in the letter as plainly as I can see her in her daguerreotype; and say to her further that I shall answer her letter soon.

Tell my dear little boy Hugh that I shall remember his promise to answer the letter I wrote him as soon as he has learned to write, and that I bear in mind his other promise, often given, but now renewed, and in writing, too, to take care of his parents when they have become old and have no other reliance as a staff whereon to lean but their beloved children. If he continues to study as hard, and to learn as fast as Emma says he does now, it will not be long before he and his father can talk to each other through the great distance that now divides them.

And now I am prepared to tell you at length what conclusions I have arrived at with regard to my stay here. These conclusions have been reached for the first time within the last hour. In consequence of certain new aspects which business matters have assumed here within the last fortnight, Mr. Park has concluded to hasten his departure for the East, and will, in fact, leave with his family on Friday next, March 16, and by the same steamer that will carry this letter. He has seen fit to say to me that in all probability, on his return, the firm as now constituted will be dissolved and a new one formed out of the old members in part, and that I can go into the firm if I choose to do it, or remain in my present relation with a desirable advance on my present salary. Mr. Billings and I have had a long talk on the subject tonight, and he has taken occasion to express for himself and for Mr. Peachy their respect and regard for me as a man and as a lawyer. He was pleased to say that he expected very much from me, but was astonished at the rapidity with which I had broken into business and mastered all that was peculiar to California Law, and that his anticipations as to my ability and efficiency were much more than answered. He further said that the firm could not get along without me, and that I could become one with them or stand in my present position at an advanced rate of compensation, but he should personally prefer to have me become a member of the firm.

The *experiment* I made then in leaving my business at home and coming here to seek my fortune has been made, and the results so far are before me and you. We are alike interested in them. They are most welcome to me and they will be to you. I feel and know that these results have been *honestly* and *courageously earned*. Whatever dread I had of failure or of only partial success, which would be but another name for discomfiture, is now past; the future begins to reveal itself in the assured and realized verities of the present. I have a competence to achieve for myself and you and ours, and if life and health are spared I can do it here in a short time. Great wealth I do not desire, and shall not strive to attain. All I want is *enough,* and then I intend to return to Vermont, to my native county, to the town in which I have for 16 years so pleasantly lived, and spend the residue of my days under the vine and the fig tree which my own hands have planted. You know my strong affection for my family and for every member of it. You know that I cannot remain long absent from the spot where my children are buried, much less leave it forever. For the next 25 years life in this State is to be turbid and turbulent, full of sharp vicissitudes and taxed with all sorts of varied and exhausting endeavor. Should I conclude to make this State my home, I should make up my mind for a life hereafter of continuous warfare even down to the day of its conclusion, and I should renounce at once and forever all hope of that quiet and still enjoyment which my nature loves, and covets because it loves.

Park has advised me to bring my family here, and to have you all come out when he returns. Were I to make it a matter of feeling merely, I should not hesitate a moment. But it will not do to take counsel of feelings. Reason should alone be consulted. I could never content myself to live here. I think too much of old friends and of familiar places, and the associations connected with them have too strong a hold upon me. With my family in Vermont, old acquaintances hear of me through my family, and I hear of them through the same channel; thus I continue to be interested in them and for them, and they to some extent continue to be interested in me and for me. With my family here, all this would be dissolved, and alienation and oblivion would follow. The motive to return would be weakened, and perhaps would be displaced or overborne by new and stronger motives, inducing me to remain here for my life—a consummation that now I do not desire, and I would therefore avoid a step that would have a direct tendency to make that consummation a probable event. And then, were you to come out here with the children, it would take two or three years to get fairly settled; it would take that time to form a circle of pleasant acquaintances and friends, and when that desirable object had been attained after a painful probation among entire strangers, the signal would be given for a return to a soil from which our last footsteps would have become obliterated. Saying nothing of the expenses connected with this double transit, and the greatly increased expenses of living here, I am satisfied that, considering the youth of our children, the uprooting movement would in nowise be beneficial to them. Having much confidence in the judgment and entire truthfulness of Mr. Billings, I have submitted the matter to him for advice, and his conclusions have fortified me in the belief in the accuracy of my own. The result of the whole is that I think I had better take my chance here—*alone,* for two or three years. Whatever there may be of evil in that word to you or to me will have to be endured, and the residue of life I hope and believe will not be the less useful and happy for the sacrifice.

March 12. The Parks are busily making preparations for their return. The prospect of revisiting soon the old familiar places, and of being reunited to their distant kindred, has apparently made them all happy and glad. I live only in the hope of enjoying a like pleasure, but I must patiently wait during all the days of my appointed time.

. . . So far I have drawn nothing from the firm, and shall hereafter draw nothing except what may be necessary to pay my current expenses. I spend nothing unnecessarily—not a cent! I am as tight as a drum and stingy even as a miser. I never thought myself particularly economical at home, but I am so here. I have sometimes been a good deal diverted in studying the change that has taken place in me in this particular, and have frequently made attempts to divine its philosophy, and I am satisfied that the explanation is this: I am here not to *enjoy,* and with that idea I am possessed completely. I am here to acquire the means to be enjoyed by myself and by others hereafter and elsewhere. I know the present but as a season of labor, and California but as a field in which that labor is to be performed. Of enjoyment I have no thought except in connection with my New England home, and of that my thoughts are full. Into that contemplation the thought of mere personal indulgence does not enter very largely. It consists, in its sum and substance, in the hope of advancing and beautifying the spot I call my home, in educating, accomplishing and advancing our children, in making my dwelling the center of a generous hospitality and the pleasant resort of numerous and earnest friends, and in promoting the welfare of all around me.

MARCH 14. I have just returned to my boarding place from the office. It is 11 at night. The slight indisposition of which I wrote is gone; I am again quite well and feel as smart as a cricket. Overhead I hear the sound of music in the sitting room—a room, by the way, into which I very seldom enter. I have no taste for society whatever. Today I shirked an invitation to dine, with my employers, at Folsom's, the great millionaire of San Francisco, and I did so for the reason that I preferred the silence and the quiet of the library and the communion of my own thoughts to festive mirth.

. . . I want you should have your daguerreotype and those of the children *all* taken in Mr. Howe's best style, and send them to me by Mr. Park when he returns. He and his wife will call on you, and very likely in a few days after their arrival at Bennington. . . . Continue to write by every mail, giving me all the news.

I am your affectionate husband,

O. L. SHAFTER.

From Diary.

MARCH 15, 1855.

This afternoon Park* came into the library, and finding me alone, put a letter into my hands and asked me to read it and tell him what I thought of it. I read and found it to be a challenge from Hamilton Bowie, from Maryland, and late Treasurer of the City. Park was connected with a prosecution instituted against him before the Recorder for malfeasance in office, which prosecution was concluded about the time of my arrival here. About one month ago the matter was laid before the Grand Jury. The District Attorney applied to Park to frame an indictment, and he directed me to draw one. I did so, and it was "found" by the Grand Jury. Today the case came on for trial and a *nolle prosequi* was entered. Thereupon the challenge was written, I suppose. The note charges Park with having acted maliciously in the matter. After reading it, I gave Park what he asked for,—my opinion,—and it was one which I shall never have occasion to regret. I reminded him of the land of his birth,* of its laws, its principles and its sentiments; of his education, of his wife, his child, his friends and his God; pointed him to the grave of infamy into which he might be cast, or the bloody grave into which he might be guilty of casting a victim of his own. I told him that his early training left him without any apology for hesitation even, that the opinions and sentiments of one-half the nation imperatively required him to set the senseless "Code of Honor" at defiance, and that such conduct on his part would command the applause of a large proportion of the population of this City even . . . that the sending of the challenge gave him an opportunity of showing his own moral courage if he had any, and of demonstrating his own moral cowardice if he was afflicted with that weakness. He replied by saying that he had put himself unreservedly into the hands of his friends, Baldwin and Folsom, and that if they said "fight him" he should do it. I told him that I had a better claim to the title of "friend" than they; that we were from the same State and had known each other for many years; that he had relatives in Vermont whom I knew, and that I could better value their claims upon him than his friends of yesterday. But it was of no avail. He still adhered to his resolution to abide by the decision of those into whose hands he had put himself, and I abruptly left him. My resolution was taken. I went directly to the Recorder and put him in possession of the facts. The police are upon the watch to prevent the meeting. I left the office at 10 o'clock. Park was there. I have told Charles Lincoln of the affair, and he will aid the police in keeping track of the would-be murderers.

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*Trenor W. Park.

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*Vermont.

MARCH 16, 1855.

Park, after all, declined the challenge, but upon a mere figment, of which even the "Code of Honor" takes no notice. By his most lamentable misjudgment he has proved himself false to the law of right and the law of honor and can now claim the protection of neither. Outlawed of both, he can expect to receive the sympathy and countenance of those who profess fealty to neither of these rival codes. Today he embarked with his family for the East. My own heart half forgives him for the great wrong he has done himself, his friends and the cause of truth, and my reason even urges many palliatives of the great error he has committed, but after all allowances are made, in just and even merciful judgment, his conduct must receive the severest condemnation.

Although Mr. Park wavered in his principles in the heat of the moment when this challenge was at first received, he afterwards stood firmly in support of the sentiments ruling his people and section, and when Colonel Baker, during the progress of the Adams & Co. insolvency proceedings, lost his own head and declared that if Park was displeased he (Baker) stood ready to "fight," Park replied:

"A cheap exhibition of courage, if he meant he was ready to fight a duel. He knew that a year ago I had announced that I would not accept or send a challenge. My early education taught me to believe this mode of settling difficulties to be wicked and barbarous. The laws of my native State—the good old State of Vermont, still dear to me though far from here—have pronounced dueling a crime. I have not forgotten the instructions of the earliest and best of friends. I have not lost my respect for the best citizens of my native land. I am not prepared to abandon long-cherished principles—to forget obligations of the highest character, in the idle expectation of protecting wounded honor. And I can't say that, if I were ready to adopt the code the gentleman seems disposed to consult,—that, if I were ready to die as the fool dieth—that I feel so much hurt by the gentleman's assault, as to regard it necessary for my vindication to resort to that mode of settling controversies. I would inform counsel—I mean Colonel Baker; his associates, Mr. Wilson and Mr. Aldrich, have, as is usual with them, conducted this case like gentlemen, respecting themselves and entitled to the respect of others—I inform the counsel, who seems so well to understand how to blow his own trumpet, that I should not feel greatly alarmed if any comparison were made between his character and the character of any of those whom he has assailed. Who are his associates?"

Oscar L. Shafter to his Wife.

San Francisco, March 17, 185[illegible]

My Dear Wife:

This morning on coming to the office I found letters on my table, and a parcel which I was satisfied was a daguerreotype. I commenced with that—opened the case, laying aside the accompanying letter—and *beheld my wife and babe.* For 10 or 15 minutes I sat steadily contemplating the picture—the thought never occurred to me but that the babe was sleeping, and as I gazed upon the infant and my heart swelled high with a father's pride and a father's joy, and again as I noticed her likeness to the loved and lost, my heart failed me at the recollection of past bereavement, and trembled with fear lest it should be again renewed, in the *future.* But I turned at length to the letter. The first line—"our little Alice is dead"—told me by sharp and sudden revelation that the pride was but a mockery, the joy but a delusion, and that the thing feared had already occurred. You have placed her beside her sisters. There are now three of the same name and of like countenance that live on earth in our memories alone and there they will live long. It seems to me like the same blow, thrice dealt, and not like three distinct afflictions. We said, and half believed, that the first Alice was restored to us in the second, and when she too was snatched from us, and the last was born and named, both seemed to live again in her, and in her death each of the others seem to have again died. The intelligence unmanned me for the moment and wrung me with a grief aggravated doubtless by the mood of mind in which I turned to Emma's letter, and yet more by my isolation here.

In an hour I was obliged to be in court, and have just returned, it being 3 o'clock P. M., to the hubbub of business in the office. But I have braced myself up to the duties of the hour and have met them and discharged them. The office is now clear. I have tried to fix my attention upon matters of business now on my table and yet to be transacted, but have failed. My thoughts are with you; they dwell upon the past, they explore the future; they anxiously interrogate it concerning residue of evil yet in store; and baffled and weary, they return and feed upon the channel of the present. I take the picture again—the clerk of the library sits with his back towards me—and gaze again upon the shadow of the shade of the child while living. I turn to the letters and read them again, slowly read them, dwelling on every word. I fold them up and lay them aside and make an effort at repose. The attempt is vain. My fugitive thoughts are still flying away, bearing me with them. I hear the labored breathing that awoke you at 4 o'clock in the morning, participate in all the watchings and anxieties, in all the alternations of hope and fear that ensued, until the end came. I join in the solemnities of the funeral, seated by your side. We look at the child for the last time together, when the services are concluded, and the emotions of the children that survive, at the death of their little favorite, but deepen my own, and for the third time I am by your side in the last obsequies of the tomb.

Express my thanks to Mr. Ranney and Mr. Davenport for their full and friendly letters, and my deep gratitude to all those friends who aided and sympathized with you in your affliction. We cannot forget them or theirs. There are some intimations in Mr. R.'s letter as to the mode in which the child was treated that painfully remind me of former misgivings entertained on like occasions, but I try to believe that these half-developed convictions have no real foundation, and it would now be better for us both if we could succeed. We have three children left. May God in his mercy spare *them* to our affections and our hopes, and enable us to rear them in His nurture and admonition. Emma remembers all of the dead. Mary and Hugh remember and will always remember the last two. *We cannot* forget. And their memories will ever be a bond of union among the surviving children, linking them more nearly to each other and to us.

I am glad that you sent the daguerreotype, and you will be glad to hear that it reached me safely. When my stay here, made more wearisome by this last affliction, shall have ended, the picture will be restored to you and the children. I was greatly comforted by the intelligence that father and mother were with you so providentially, for he could understand and measurably represent his absent son. I am glad that you have found yourself able to meet this affliction with so much fortitude and resignation, and whatever of calamity may befall during the period of my absence I trust you will be able to meet and bear it with the like spirit.

I am under circumstances where I cannot stop to mourn. The luxury of grief is an indulgence from which a stern and unforgiving necessity debars me. I must meet what is upon me and before me, how greatly soever the heart may be burdened, and I am resolved to do it.

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Be mindful of my request, expressed in my last, to send the daguerreotypes of the children by Mr. Park. You need not send your own. I *prefer* to look upon the mother and the lost babe, always in connection, as they are represented in the picture I now have. When the snows are gone you will have a stone erected at the head of the new grave in all respects like the other two. . . . We have seen enough to know that inflammatory diseases affect our children for some reason with formidable violence. If any of the children are attacked with any of the complaints above indicated, the most thorough treatment should be resorted to at once. . . . In the contingency named, secure the best medical attendance without delay . . . and when the healer comes, bribe him with gold *to stay* until fear has been dispelled or realized. My heart is worn with its frequent and protracted wailings for the early dead. I would try to write on some other subject than our bereavement, but I cannot. I feel it the more keenly for the reason that I am alone,—and that you are alone also, and by reason of the prospect that our separation is to be protracted. Tell the children that their father lives but for them and their mother, and knows no ties like those that bind him to them. They will remember their little sisters that are gone, and be mindful of the mercy by which they themselves have been spared. When the season for it has come, let them aid in the floral decoration of their sisters' graves, and often visit them together. Nothing would interest and gratify me more than to know that these injunctions were complied with.

Give my regards to all, but especially to all those who are kind and good to you.

From your affectionate husband,

O. L. Shafter.

March 22, 1855.

My Dear Wife:

The letter to which this is an addition was written, as it purports, on the same day that your last was received, and under great depression of spirit resulting from the most melancholy news received from home. Since that time I have been actively employed, and am now measurably composed and resigned. The visitation is painfully severe, but life is full of vicissitude, and he who cannot suffer without undue complainings is but poorly adapted to meet and dismiss the hours as they go.

I wrote to you in my last to the effect that I had made up my mind to stay here longer than a year. I meant by that however nothing more than that such was my then present purpose. I intend on that question to hold myself in the hollow of my own hand so long as practicable, and it is not at all impossible or improbable even that I shall in

Plate V. Mary, Hugh and Emma Shafter
from old Daguerreotype

the end determine to return. If at the end of my year I can invest my funds so as to be perfectly secure and at an eligible rate of interest, it will be an inducement for me to tarry no longer. But there is so much of dishonesty and dishonor here in every lane of life that there is serious risk in trusting any one. The hard times have induced the exposure of much that has heretofore been successfully concealed, and have driven and are driving many, very many, to every description of venality and crime. The whole framework of society, the entire organization of things here, is distasteful to me. I am not homesick. I am in no wise discontented, nor am I affected with any regrets for having come here, except that I was away when my child died.

If nothing besides, my pecuniary interests will have been much promoted by my exodus from Vt. Still, when the hour for my departure shall regularly have arrived, I doubt not it will be cheerfully welcomed.

Tell my little son that his father often thinks of him and often looks at his picture in which he is represented as sitting in a high chair between his sisters Emma and Mary. He and they must keep their feet dry, throw back their shoulders, sit up straight, and try every day to see which can outrun and outjump the other.

And now good bye. I shall write by the next mail.

O. L. Shafter.

San Francisco, March 26, 1855.

My Dear Wife:

Last Saturday Mr. Billings told me that he was afraid I should hurt myself with hard work, and was so considerate as to ask me to take a jaunt with him into the country. At 5 o'clock his horses were at the door, and in two hours from that time we were 23 miles distant from the City, to the south at San Mateo, a point of land that juts out into the bay of San Francisco. The day was devoted to music, reading and wandering. This A. M. we left at 7 A. M. and at 9 P. M. were again in town. Before this jaunt, I knew very little about the country from actual observation, but still a great deal had been told me of its wonderful fertility and beauty. I am now abundantly satisfied that there has been no misstatement. The great feature in the landscape scenery here is the rare *combination* of all the elements of beauty and grandeur and sublimity which everywhere surround you. Take the country that I traversed on the trip above named as a sample. To the left was the Bay of San Francisco, running about 40 miles to the south of the City and having an average breadth of perhaps 10 miles, and its face was as calm and unruffled as a mirror. On the opposite side of the Bay and at a distance of 3 or 4 miles from its western shore, there is a range of wild, rugged mountains, rising sheer from a fertile plain that extends from their base to the waters of the Bay, and on one side the formation is substantially the same with this exception: Along the base of the black, jagged Sierra, and parallel with it, there are low ranges called the "foothills." They are easy of ascent, smooth and round as the head of a monk, arable to their summits, covered with grass of a most luxuriant green, and then sink gently down to the level of the magnificent plain that stretches away to the waters of the Bay. These hills and the plain are a perfect parterre of flowers. The sun went down and the wonderful valley was filled with the soft and mellow twilight. The air was as mild and balmy as the breath of Araby. Thousands of horses and cattle were spread out on the plain and the foothills. There were few or no fences to limit the freedom of their range or to show that the all-grasping Yankee had supplanted the Mexican Ranchero in the land.

The plain and the hillsides were dotted here and there with oaks whose dark green foliage contrasted most happily with the lighter hue of the sward. As we whirled on to the south, we every now and then passed the openings of transverse valleys that penetrated deep into the body of the Sierra. Into one of these valleys we strayed the next day; it is called the *Cañada.* There are perhaps a thousand acres, filled with cattle, watered by a beautiful arroyo (brook) abounding with salmon trout, surrounded with hills of the true Titan breed, and the bottom lands of the valley are as rich as a garden. It is a place in which to live, die, and be buried. This is indeed, a glorious country! In the end when the lawlessness and crime that now mar and dishonor it shall have passed away and the reign of order and of a passable righteousness shall have been established, it will be a land which its native born will never leave for any other that the sun shines on. But now, society here and the beings that constitute it, constantly remind one that man and nature are at war. We had a very pleasant trip indeed, and the change of scene, relaxation and exercise, brisk as it was, have done me a great deal of good after my exhaustive labors.

Before returning I hope to travel through the State pretty thoroughly. There is a fall of water in the Northern part which is reported to be 910 feet in height and there are two mountains rising directly from the plain to the height of 17,000 feet above the level of the sea. Then there is the Valley of Santa Rosa which is said to far exceed in fertility and beauty the one which I have described.

I shall see them all before I start for home.

The weather is delightful, and the earth has added marvelously to its beauty by the vesture of flowers in which it has arrayed itself. Business is painfully dull in all the departments except the Law; in that there is no want of activity. The great proportion of the work is done by four firms, of which this house is one. The suspension of the banks and private failures have added greatly to the current business, and *all* the business of this firm is now done by me alone with such incidental aid as I can get out of the clerks.

(*Continuation of foregoing.*)

March 28, 1855. The steamer is in, and I am in possession of your letter. It would be a great affliction for a mail to come without bringing a letter from you with it. Judging from what you have written and from what I have read in the papers, you must have had a winter of almost unparalleled severity, but with "3 cords of wood on hand" and a snug house, I think you will not suffer very much, if the wood is only dry. I hope that you will have the shed proper, and the false shed in front, packed full of wood in the spring.

Your allusion to our lost babe, her beauty, her good nature, the fondness of the children for her, and to her sudden and almost fated death, have brought this last mutual woe of ours again full before me. I am gratified to know that you have met and continue to bear this most painful bereavement with resignation.

The little boy then is fond of reading his book? That is very encouraging certainly! There is wisdom in books, and as he has begun to read diligently while so young, he will, if he keeps on, be wise when he becomes a man. . . . . I want to know whether Emma is reading as I advised. What books has she read, and what ones is she reading now? How is she getting on with her music? Will she take lessons in the spring? Does she beat time? Does she study the rules of music and play with reference to them? Is the piano kept in tune? Has she begun to give lessons to Mary? Is it not time to do so? I want Mary and Hugh, when he is old enough, to learn to sing and play.

I am oppressed almost with the severity of my labors here, but there is no escape and so I submit to it. I have no time to write to you except what I steal from sleep. Most of my letters are written after 11 o'clock at night, but I would write after 4 in the morning before I would allow a mail to leave without carrying you a letter.

From your most affectionate husband,

O. L. Shafter.

San Francisco, April 12, 1855.

My Dear Wife:

There are two left for us to love and live for, and there are five dead for whom we must ever mourn. Oh Life! Oh my heart! Two hours ago a telegraphic dispatch was laid on my table. I tore it open and learned that our son was dead. There is hardly any measure of calamity that could have fallen on me with such weight. I was stunned and dizzied by the awful blow, and for the last two hours have lived long years of common woe. He was my joy, my pride, my hope. From the hour of his birth my whole future has been filled with him, my plans have all had reference to him and have all centred in him. He had learned to identify his own future with mine—with *ours*. He had gladly received the inculcation that *he* was to be to us a staff and stay, when we should be the waifs and the wrecks of time. He delighted in contemplating us as leaning on him, and himself as supporting us. He was intelligent, he was affectionate, he was beautiful. He was all that parental fondness could desire in an only son. I was far away from him when he died! I came here not for myself but for him and his sisters. It was a great grief for me to leave them, but I hoped and trusted that I should advance them, and above all, that whatever of evil fortune I should myself encounter, that I should be permitted to see them all again. Two of them I shall see no more! How often have I pictured to myself the hour of my return—my children—*my son!* (I *cannot* name his name) coming forth to meet me. But when that hour shall arrive, his wild, filial welcome will not be heard! I shall meet a broken and dismantled household only—My boy, my boy is dead!? Would that I could have died for him! I try to master my sorrow—to resist the tide of feeling that overwhelms me. But I cannot. It claims indulgence and I am powerless to resist it.

It would be some relief to hear the circumstances connected with his sickness and death. *Now* and for a fortnight hereafter I shall only know that "my son is dead," and that he died on the 15th of March, the day before I heard of the death of our babe. Day before yesterday, I think, I looked at his picture. It was open before me for some time and I dwelt upon it with feelings of a measured fondness and pride. And again did I look upon the dead, while I supposed I was looking upon the living. I cannot look upon that daguerreotype again. I am overcome with a feeling of dissolution. The gentlemen connected with the office, hearing of my bereavement, have spoken the customary words of sympathy and condolence. They have told me to abandon business for a time and go whithersoever I will, but my deep grief admits no ministry and can find no relief, now or hereafter, except in communion with you. We loved him alike; he was yours as well as mine. We were from the first fully possessed of each other's feelings and hopes concerning him. You will understand *my* woe, for it is *yours;* you will comprehend my feelings, for they are your own. We are in sympathy with each other, and to that sympathy I turn for solace. In his last sickness and in its last stages, did he remember me? Did he speak of me? Did he mention my name? Did he leave any message for me? Oh! My child! My child! My son! My son! My own life is lost to half its ends since he is no more. Grievously does my heart misgive me that I was not with him when he died. I pause, and try to feel that I am resigned, that I may say so to you. I try to feel that "He has given and He has taken away, and blessed be His name," but my heart is unfitted to give welcome to that holy sentiment though neither my thought nor my pen shall disown its claims. The whole life of the child is before me. A thousand little incidents recur to me with which he was connected, illustrating his affections, his intelligence and his promise. And oh! how my heart repines and wails at his early doom. My reason tells me that these repinings are of no avail and should be stilled, but they possess me and I cannot forget them, or cease to heed them, or allay them. Would that I were with you and could lay my aching head upon your breast, or pillow yours upon mine.

If you are resigned to this affliction, point out to me the character of your resignation and direct me to its sources, or if maternal grief is too powerful for restraint or check, tell me that, and in your heart I shall see the likeness of my own. Most grievously have we twain been afflicted in our family. Few have suffered so much as we by the loss of children, and of the residue of like suffering yet in store we know not. Emma and Mary alone are left of seven children born to us in twelve years, and that they are left is of God's mercy. Long, long will they remember their little brother, should they live; he was their only brother and therefore doubly dear to them. They are but two and each has now no one to love but the other. Let them constantly bear in mind that they are as liable to be separated, as was their little brother while in life to be separated from them, and but love each other the better for the reason that they are alone and may at any moment be sundered.

Why should I write further when I cannot allude now to any other subject than the one which absorbs me—his death? I have given utterance to much which the heart yearned to utter, yet it is as full and unsatisfied as if I had not written at all.

On Saturday I must go to Sacramento. I have to argue a very difficult and important case involving property to the amount of $85,000. I have spent much time in the preparation of the case and had set my heart on arguing it thoroughly and well; but I have lost all interest in the case and fear that I shall not be able to rally my thoughts so as to do it justice. This news I fear will detach me too much from the dry and stern realities which are before me, and with which I shall be compelled to grapple. I revolt at them as they lie in contemplation and would willingly and joyfully renounce the din of life forever. But I know that these feelings are all wrong, and hope that I shall be able to overcome them. I have duties still, wife and children still to unite me to life and to engage me in its warfare. You are dear to me as the blood of my life, and my surviving children now claim for themselves all the love that I once divided between them and the dead.

Time, that blessed minister to a mind diseased, will extend to my sorrow its ameliorations as it passes away. Energy, purpose, design, will reoccupy their old entrenchments within the heart. But never, oh never! can this last great sorrow be forgotten. Its proportions contract not as I contemplate it, but grow more and more vast, and more and yet more clearly defined. You may forbear to erect any tombstones. When I return I shall cause a monument to be erected to my children who were lovely in their lives and in death were not divided. . . . . God bless you, and my dear children that remain.

Your affectionate husband,

O. L. Shafter.

(*Continuation of preceding letter.*)

April 13. I have passed a fevered and distempered night. This morning I took a walk through the outskirts of the town and have just arrived at the office. I find a letter on my table from father dated March 14. In the body of the letter he speaks of the death of our babe in connection with his visit to Wilmington, and adds the following postscript:

"Friday night, 16th. Mr. Lovell was here to-night. Says he left your house Thursday. Hugh had a second attack of the croup and he left him dangerously sick. I shall wait before closing this until the Southern mail comes in and will send the latest news. If I hear nothing I shall hope he is better.

"Eight o'clock and no news, so I hope he is better but fear the worst—God bless you!"

I am exhausted—entirely prostrated. My heart is leaden and my head feels as though it was girt with an iron band. I have tried to rally—but Oh my son! my son!

The wide world seems but as the house of death and the air seems heavy with its damps. I have concluded to start this afternoon for Sacramento. The case that I spoke of before the Supreme Court will be heard on Monday, and change of scene during the interval may aid me in recovering some degree of tranquillity. I hope father and mother were again with you at the burial. Write all the details however sad and mournful they may be.

Your husband,

O. L. Shafter.

San Francisco, April 20, 1855.

My Dear Wife:

On the 13th inst., the day after my last was written, I left this city for Sacramento to attend the Supreme Court. I arrived there the next morning, which was Saturday. On the next Wednesday my cases were reached and I was employed in court all day. Last night I returned to this city, and having finished my more pressing labors for the day, I have concluded to write you by the Express which will leave by the next steamer. Time hung heavily on my hands while at Sacramento, and would have hung more heavily still had it not been for the companionship of Charles Lincoln. He is a member of the Legislature now in session at Sacramento, and did all that he could to make my stay there pleasant. But none but He who knows the heart of man can understand the deep dejection and the all but utter despondency with which I was overwhelmed. But I will not and ought not to add to your affliction by recitals of my own. I went into court, and even when I rose to speak my thoughts were on the dead; but by an effort which put in requisition all my powers of self-command, I began and went through, speaking for about two hours. The intensity of my feelings when I commenced may perhaps have aided me in my argument on the whole.

While in my room on Sunday I sought to ease my burdened heart by penciling down a few lines in my memorandum book, and I send you a copy of them. I send also the daguerreotype of Emma, Mary and our little son. I wish you to send it to Mr. Barrett of Grafton to be reproduced in a crayon drawing in the highest and best style of his art. . . . . I trust that I am resigned in some degree to the great bereavement. We always had misgivings that he would die young, and the fear has been realized. I would not repine. I try to submit and to solace my grief with the hope that I shall see him yet again. The world is full of suffering like ours, and there are very many whose afflictions have been greater than any to which we have been subjected. We have two left; there are many who have none. I trust that we shall continue to bear patiently the residue of life and its ills, whatever they may be, and ever cherish a spirit of resignation and hope. But as long as memory remains the form and features, the character and promise of our little son, will abide with you and me and with his sisters. I cannot trust myself to write about him. I dare not give indulgence to my thoughts even. I long to revisit the home in which he died and to stand beside his grave. Preserve everything that belonged to him as a precious relic. Oh! My son! My son!

I must stay my year out and intend to do it without flinching and without relaxation. Everything goes on here pleasantly and auspiciously. I am in the confidence of my employers, and as to the future can do in all respects pretty much as I like in whatever relates to business arrangements. What I shall do, I cannot now say, but by *his* death the motive to stay is now diminished and the motives to return are greatly augmented. In any event, this is probably the last winter that you and the surviving children will spend in Vt. until they shall have arrived at an age where those fearful maladies that have proved so fatal to us will no longer endanger them. . . .

Say to the little girls that they lie near, very near, to the heart of their father, and he longs to see them, and hopes to see them yet again. They must improve their time and endeavor to make all the proficiency possible in their learning. Have them take a great deal of outdoor exercise, and keep their feet warm and dry.

My letter is about concluded. I shall bend myself to my work resolutely and courageously, bearing whatever remains to be borne, always sustained and soothed by the hope of being again and speedily reunited to you and to those that are left of our children.

From your affectionate husband,
O. L. Shafter.

Entry in Diary.

April 23, 1855.

SKETCH OF HUGH G. SHAFTER

He was born on the 15th day of June, A. D. 1849, and died on the 15th day of March, 1855. He was a child of most remarkable promise. In this I am not misled by parental love. His perceptive faculties were singularly active and vigorous, and I never knew a child whose mind was more given to reflection and who was more successful in mastering the thronging problems that constantly press upon the attention of the young.

SAN FRANCISCO, April 30, 1855.

MY DEAR WIFE:

Yesterday I went with a friend to Oakland on the opposite side of the bay. There are thousands of acres of level land there and exceedingly fertile, lying between the bay and the mountains, and it is covered with ancient and gigantic oaks standing from 40 to 60 feet apart, and the sward beneath is covered with a luxuriant growth of grass and flowers. Among these trees the town is built. Every variety of fruit and flower, including many tropical exotics, grow here in the greatest perfection, and as to the climate, it is an unending June. Children here do not die young—at least rarely. The lady with whom I board told me yesterday that their children were very often sick before they came to this country, but that since their arrival, now some three years, no one of them has been unwell even. You can hardly conceive my anxiety to hear from you, though I anticipate that your letter will bring upon me a return of the feelings with which the first intelligence overwhelmed me.

The judges of the Supreme Court have done me the honor to say, behind my back, to Mr. Billings, that the argument that I recently made before them was the ablest argument ever made in that court—which commendation you will see may amount to something or nothing. Yesterday one of the leading law firms in the city tendered me a partnership with them at the conclusion of my year.

But all this is to me but "as sounding brass and tinkling cymbal." Ambition with me is quite extinct. There are certain economical results which I think it important to secure, and then my professional career will end. The rest of life will be spent at home in that only companionship which I value, the companionship of my wife and remaining children. Give to the little girls their father's love. Tell them to remember the advice and directions I have heretofore given them and among other things not to be forgotten, tell them not to forget to write to me.

Your affectionate husband,

O. L. SHAFTER.

A pathetic little letter from his daughter Emma, then a child of 12, but already her mother's dependence, no doubt had much to do with influencing the lonely man to summoning the remaining members of his family to join him, and thus preserved to California one who was destined to add luster to her early history. Added to his intense desire to rejoin those he so deeply loved, was the ever-present fear that others of his flock would fall before the stern Mower, should they remain in the inclement climate which already had wrought such havoc in the little circle. A previous letter shows that he had already awakened to the advantages of the California climate in the rearing of children.

Extracts from letter, Emma Shafter to her Father.

WILMINGTON, Vt., April 12, 1855.

MY BELOVED FATHER:

. . . We were very much surprised that you have made up your mind to stay longer than one year. We have been counting the weeks and months that you have been gone, as they rolled along, and looked forward to the close of the few more months, and then you would be home. It does not seem as though we could stay here without you another winter. It will be so very lonesome. It seems as much as we could bear to stay through the summer, now little Hughy has left us. Oh! it seems so lonesome. For my part I wish we could go where you are, or you come where we are. It has been an unusually severe winter here; we have all had throat difficulties more or less all the time. The air is very changeable, snow and then rain, and we suppose that is what brings on the throat ails. Mother has thought, since your last letter came, of going on to San Francisco, but does not want to go contrary to your advice. . . . For two or three mornings past Mary and I have taken our little and well-worn sled up in the orchard and slid way down. Hughy wanted mother to get him a new sled this winter, but he thought [decided] he had rather she would get him a wagon, for the baby. The poor little boy—he little thought then that he would not have a little sister to draw, or that when summer came he would be lying by the side of her in the churchyard. Yes, too true, they are lying side by side in the churchyard. . . .

I would like to know what you are doing now. You do not know how lonesome we are. There were five of us when you went away, and now there are only three. It seems too much like dividing the Spirit, to have you there and us here. . . .

Accept a mine, and a mine, and a mine of love from all of us. From your affectionate daughter, EMMA.

Letter—Oscar L. Shafter to his Wife.

SAN FRANCISCO, May 14, 1855.

DEAR SARAH:

Again I am compelled to begin a letter to you in advance of the arrival of the steamer which doubtless bears one from you to me. It is now 24 days and 6 hours since the mail left New York, and for the last two days my ears have been strained to hear from towards the sea the welcome gun announcing its arrival. The labors of the day are over. The hum of business is at last silent and its distractions no longer worry me. The last idler has sauntered from the library and left me alone. The room is filled with the brilliant light yielded by the gas burner, and the books, arranged on end in solemn cases and covering three sides of this sometimes sanctorum, give to it an air of quiet and learned repose. I have no other home but this. When engaged in court during the day, I think of it as the refuge that awaits me when relieved at night, and where the mind is to enjoy whatever of relaxation it can claim from its crowding taskwork. And here, too, the heart takes note of its own experiences, and invents and tries its various devices for resignation and repose. I like the spot at this hour of night, for its silence and its solitude. No one will intrude upon me here and now. I can take out my letters from home and read them through from first to last, and there will be no one to interrupt me. I can get out the daguerreotype and the pin-cushion, and there is no one to observe me. And if the eye brims and runs over, it can be quietly dried, and all questionings evaded. In short, I like this library very much. There is no place in or about the city that I like so well.

About a month since I bought me a set of heavy dumbbells and I exercise with them daily and have derived very great benefit from the practice. By varying the modes of playing with them, all the different muscles may be put in requisition, and smart requisition, too, and all the benefits of general exercise may be thereby secured.

Last week I was engaged for three days in trying an action for false imprisonment, brought by a carpenter on one of the mail ships against his commander. I was for the defendant, and tried the case alone. On the other side were ex-Recorder Baker, Judge Duer of New York, and Col. Balie Peyton, formerly Member of Congress. It was an awful case of tyranny and barbarity on the part of the captain, and he was beaten on a verdict of $5,000. The court-room was crowded from the beginning to the close of the trial, and the proceedings were listened to with great interest by the excited multitude. The Captain was determined to defend the suit, and for three days I did my endeavors in his behalf, tooth and nail, but it was of no use. His guilt was too manifest, and the result I have already given you.

It is now six months and one day since I landed, so you see that I have entered on the last half of my year. The first half has sped rapidly, and though it has brought much of sorrow with it, yet so far as mere general enjoyment is concerned, it has been spent quite pleasantly. Since I have been here I have been as contented as I ever supposed I would be and as successful as I ever allowed myself to hope. Still I look forward anxiously and await the hour when I shall leave and go to rejoin those I love. . . .

I suppose that the snow has all left you by this time, though I remember that two years ago tomorrow, I think,* I left home for Boston on runners, and the snow was then two feet deep. If spring has fairly and fully revisited you, then you are enjoying much the same weather as has prevailed here constantly for the last six months. . . . Write me if you have a good supply of wood, if you have got a pig, if father has taken the calf which our little boy lived to see and name. I hope he has got it. If he has not, do not sell it or give it away to any one else. Write me all the particulars about the apple trees, the maples, the gates, the fence, the state of things at the barn, and Mr. Patch's operations on the farm. Where has he sowed, and what has he planted? Are the crops up and how are they doing? How is *your* colt, and how is the partnership colt? It would almost renew my years could I be with you but for an hour amid the familiar scenes of home,—darkened most sadly, darkened as they are. But we must not repine at absence, or despond under the infliction of yet greater calamity, for absence we *hope* will one day end, and the grave will we *know* again yield up to us the treasured dead. With the lost, it is well, and it will be all well with us when the end shall come, if we so live here as to find them there. There is no lesson so hard to learn as the lesson of fortitude and resignation under the higher sufferings of bereavement. Still with the death of children there are connected thoughts and associations of which all other death is barren. The lost daughters and the lost son will never grow old to us; as they were when they died, so will they always live in our recollections here, and so will they be revealed to us hereafter. Time hurries on without tarrying, and each moment as it transpires shortens the period of separation. We wait in the patience of hope and trust for the consummation to which we hasten. . . .

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*May 16, 1853.

From your affectionate husband,
O. L. Shafter.

Oscar L. Shafter to his daughter Emma.

San Francisco, May 27, 1855.

Dear Emma:

Your last letter interested me very much. The spelling was correct and the punctuation generally accurate, and the matter such as a good daughter, who understood her father's heart, would be likely to write about in a letter to him. Your mother then has been engaged upon the annual job of soap-boiling!* I wish I could have been there to put up the leeches and to have done the rest of the heavy work for her, but I take it for true that Mr. M. or some other person was there to assist her in that particular. . . .

Your allusions to your "well worn sled" and to Hugh's generous acquiescence in his mother's proposal to have a new wagon, rather than a new sled, so that his little sister might have the benefit of it, touched me deeply. But my dear daughter, they *are not divided.* They are now together, and in the Elysian fields to which they have been translated, they, with their sisters who went before them, wander in happy and immortal companionship, the brother the eldest in years, but the youngest in that eternal life upon which they have entered. We who survive them should endeavor so to live that when our own time shall come, we may be united in the number of their happy band. We will not mourn then for the departed as though we were without hope. We cannot, however, fail to cherish their names, and we must speak often to each other concerning them. I doubt not they are mindful of us, and commune with each other concerning us, in their everlasting habitations.

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*In that day and before the establishment of great soap factories everywhere throughout the country, every self-respecting New England housekeeper annually went through the laborious process of soapmaking at home.

My own heart has at length learned the lesson of calm and hopeful resignation.

I am gratified that you are making progress in your music, and that my dear little Mary is about to commence the study of it. You must learn something more about the piano than how to pound it. Learn to play with accuracy and taste, and to this end you must become familiar with and thoroughly practised in the rules of music. I should be grievously mortified if, when I returned home, I found you uninstructed in music as a science. Learn to beat time and to mind all the rests, for if you do not, it will be embarrassing for any one to play in concert with you. But you must not give to your music any undue attention. There are other studies of much greater consequence as accomplishments, and by reason of their greater value for the solid instruction they afford. On this subject you know my sentiments and my anxieties, and I hope and allow myself to believe that you will faithfully and industriously follow your father's counsels. You must follow out the course of historical reading I marked out for you. Be attentive to dates, for if unmindful of them, the events of history will be all jumbled up in your mind without order or connection. Read some every day, even if it be but a chapter or single page even. You need not be in a hurry, but read regularly, attentively and understandingly. Try and fit yourself for usefulness, for the *life* that is before you and all its manifold duties. Knowledge is essential to usefulness; it is a condition of personal worth and of personal respectability. A vain, giggling, misinformed girl is but a reproach to her parents and but an object of pity or contempt to others. Sobriety of manners, habitual modesty, intelligence and goodness of heart, make her an honor to her parents, and commend her to the esteem and favor of all. Cultivate a spirit of forbearance and gentleness. Try to win the love of all your associates by kind words and deeds yet more kind, and by respectful deportment to those who are older than yourself, win their favor and regard. Repress all arrogance and pride, and learn to be habitually affable and good-tempered, and never forget, always, to "speak it just as it is."

What I say to you, I say also to little Mary. This summer you will be alone with your mother. Contribute all in your power to the happiness of her who loves you and who has done so much for you. Do nothing that will give her a moment's pain, for every pang that a child inflicts upon its mother will cost the child a severer one by far when the mother is no more.

When you write in reply to this, you must tell me all about your school this summer, and your studies. Tell also about the garden, the fruit trees and the maples, and Mr. Patch's operations upon the farm.

This is a land of flowers. The climate is so mild that almost every description of exotic grows here in entire perfection. The markets are filled with them, and the very air is laden with their varied aroma. Every lady in the streets is furnished with a magnificent bouquet; the dandies wear them at their buttonholes, and middle-aged gentlemen like myself, of sober garb and sedate presence, regale their solemn but appreciative noses with the sweet-scented odors of a thousand flowers. Pears grow here to the size of small squashes and of most delicious flavor. Grapes are produced in the greatest perfection, and the markets are filled with strawberries as large as hen's eggs. There is no other land like this in the matter of adaptation to mere physical enjoyment. . . .

From your father,

O. L. SHAFTER.

Oscar L. Shafter to his brother Hugh Shafter.

SAN FRANCISCO, May 27, 1855.

DEAR BROTHER:

Having a little leisure on my hands to-day, certain inward movings prompt me to write to you directly. So far as all general matters are concerned, I have enjoyed myself very well in my position here. I have been quite as successful as I ever allowed myself to hope, and even more so, for I had ceased to indulge in the youthful folly of day-dreaming for some years at least before I left home. I have reason to believe that I have secured the confidence and regard of the firm with which I am connected, and they have voluntarily assured me that at the end of my year I can become a member of the concern or stand in my present relation at a very desirable advance on my present salary. I have further had a proposal from one of the first law firms in the city to enter into partnership with them at the end of my year. But what I shall do I cannot now tell.

Death has made sad inroads upon my family since I left home.

. . . .

I was away when my son died. The tidings reached me on a foreign shore, surrounded by strangers alone, and plunged in business that could not be escaped or postponed. It is a blow from which I have not and fear I never shall recover. I named him after you, and by this familiar device had connected him with my own past and with yours, and he, through his name, had learned to identify himself with many of our common associations. He was a little boy of most uncommon promise. In this I am not misled by paternal fondness. His perceptions were remarkably quick, and he was as affectionate as a dove. . . . He was of an ardent, frank and impulsive nature, and was largely imbued with reverence. In early infancy we taught him the name of Him who passeth knowledge, and to say habitually all the traditionary prayers of childhood. He had in him all the rudiments of excellent judgment and had been uncommonly successful in solving the thronging problems that press upon the attention of the young. With myself he had learned fully to identify himself; he had blended his own future with mine, and it is most true that I had blended mine with his. May God in his mercy grant that that hope may yet be realized. He was a good little boy, and by his death I am bowed to the very earth. I write you thus fully, for it eases my heart *some,* and I would, with you, whose cherished name he bore, rescue his transient years from oblivion.

You have never lost children. Five out of seven of mine sleep side by side in the churchyard. Still, there are consolations that connect themselves with the death of children, of which all other death is barren. We are certain that no ill can betide them in the world to which they are translated, and then they never grow old to the parent. *He is never without a child.* But I will not pursue this subject further. His death I regard as the great calamity of my life.

This is a most beautiful land, fertile beyond any parallel. The climate is absolutely a perfect one, and the landscape scenery is such as the painter's eye most delights to dwell upon. Had I been born here, or were my father and friends here, and the graves of my ancestors and my own children, I do not think I would leave this land for any other on the globe. There is a great deal of venality and corruption here, it is true, but the Anglo-Saxon race has never missed fire on this continent, and it will not here. Society is even now obeying the law of progress. The elements are arranging themselves and taking on all the forms of a higher and better social state. In proof of which I would instance the anti-gambling bill passed by the last Legislature, and advert to the fact that a Maine liquor law was defeated by a bare majority. By another year, that policy which has so wonderfully exalted itself in the East, will be fully inaugurated here, and then another great economic leak will be closed, another source of widespread social evil will be dried up. . . . I give you all a pressing invitation to write me. There is nothing that I now like so well as to write to my kindred, unless it be to be written to by them.

From your affectionate brother,

O. L. Shafter.

Oscar L. Shafter to his Wife.

San Francisco, May 31, 1855.

Dear Sarah:

The "Golden Gate" came in to-night and I am now in receipt of your and Emma's letters of the 27th of April and also of a letter from Mr. Davenport. Mr. D. informs me that you were at Bennington on the 29th. I am glad that you concluded to go there, for it has occurred to me that it might not be convenient for Mr. Park in the hurry of his visit to go to Wilmington. The reports that you have heard about Park's fleeing the country, and about his concealment on board the boat for three days before it left, are all of them entirely destitute of foundation. Neither he nor Mr. Billings have done anything unworthy of themselves or that has impaired to any degree the respect and confidence of their friends. I have a personal knowledge of all the facts in the case, and do not hesitate to say that they do not in my judgment affect to any extent their integrity or honor.

James[*] in his letter to me manifests every disposition to emigrate to this country. He is out of sorts with Wisconsin in all respects and looks to this State as a place of refuge to be fled to with as little delay as possible. As soon as Park returns I shall try to make some arrangement in his favor. . .

I am anxious, deeply anxious, to be reunited to my family, but the time and the place where that most auspicious event will take place I cannot now determine. When Park returns I shall probably be better able to make up my mind than now. Keep up a stout heart, my dear wife, and in the end all will be well.

Good bye.

Your affectionate husband,
O. L. SHAFTER.

Oscar L. to his brother James McM. Shafter.

SAN FRANCISCO, June 16, 1855.

DEAR BROTHER:

Your letter of April 9th received. I have delayed answering it for the purpose of closing up certain negotiations which I set on foot some time since on your behalf. Hager[†] of the firm of Hager & Sharp,[‡] has been appointed by the Governor to fill a vacancy on the bank of the 4th Judicial Dist., and he will doubtless be *elected* Judge by the people next September. Sharp wants a partner, but concludes not to form a partnership now, lest Hager should fail of an election, in which event their former connection would be renewed. Sharp is in the same building with us, and the firm of Hager & Sharp has always done a very fine business. Sharp is a very clever fellow, has a large outdoor acquaintance, and has formerly been City Attorney. He understands the art and mystery of "getting business," as it is called, but is not very accomplished as a lawyer. The heavy work of the concern has heretofore been done by Hager. The upshot of the business is that nothing can be done there until *after election.*

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[*] James McM. Shafter.
[†] Judge John S. Hager.
[‡] Solomon A. Sharp.

There is a young fellow by the name of E. B. Mastick,* from Ohio, here, who from small beginnings has worked himself into a business that yields him, as he says, $800 a month in cash, and in addition to that enables him to make a credit business which he does not pretend to value at anything until the money is forthcoming. He is clever, assiduous and honest, but does not know law enough, as he says, to engage in the conduct of contested cases. He introduced himself to me some time since, and suggested his self-imputed deficiencies and proposed to me to aid him in consultation and otherwise, as he might have occasion, and for some time past I have been in the habit of doing it, and have in one instance tried a case for him, and am associated with him in another to be tried in a few days. I was informed by a mutual acquaintance a few days since that he wanted a partner of learning and experience, and I have had a talk with him on the subject and have named you to him. He is conformable, but says that he has been dipping into some real estate speculations, and he wants to get out of them before he connects himself with any one in business. He says further that he has no doubt he shall be able to do it, and that, too, before the steamer of the 1st of July, at which time I shall probably be able to write you definitely. He will go in with you on the principle of 'alf and 'alf, if at all, and I think he would be a very eligible partner. He thinks that with a competent partner his business could be very much extended.

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*Afterwards Judge E. B. Mastick, after whom Mastick Station, etc., in Alameda, were named.

At the first start Sharp would be the better chance, but in the long run I should on the whole prefer Mastick, but either will do. Should I conclude to stay here, a partnership between you and myself would be the consummation that I should drive at in the first instance. But my mind is not as yet fully made up upon the length of my stay, though it probably will not close with the close of my year. I shall not return, however, until I make up my mind to abandon the practice of the law. The death of my children has affected me most deeply, and for a time I feared that I should not recover from the blow. But I have not intermitted in business for an hour, and it is well I think that I have not and could not.

I have no doubt but that you will succeed here, and my only anxiety is to have you start under circumstances that will save you from a troublesome probation. I shall write you by the next mail, and at that time, should Mastick have concluded to go in with you, I will give you all needed details. The "Practice Act" here is substantially the same as in N. Y. under their new system, and should you come out here I would advise you to buy the N. Y. Code of 1852, Voorhies' 3rd edition, with Supplement and Notes, and read it thoroughly on the way out. The N. Y. Reports are used largely in the courts. We have the *Chancery Jurisdiction* in full blast, though the formal distinctions between law and equity are abolished, and the equity powers of the courts are habitually invoked. . . .

Your brother,

O. L. Shafter.

Oscar L. Shafter to his Wife.

San Francisco, June 26, 1855.

My Dear Wife:

I have had a hard day's work, but at the end I have known the solace of a capital dinner at Mr. Park's. Not a *boiled* dinner, it is true, but the next to it in rank. The dinner was not of the showy and ambitious type, but plain, substantial and home-bred, for which reasons I liked it all the better. We had roast pork, tender and juicy and done to a turn, green peas and other vegetables, cucumbers and raw onions, concluding with large and liberal allowances of custard pie. Day after to-morrow they have a *boiled* dinner, and they have obliged me so far as to invite me to aid in the work of its extermination. Mrs. Park seems to have left Vermont with even greater regret than when she left it first, and she quite evidently expects to return as soon as what she regards as her temporary sojourn here shall be over, say in about two years. She speaks of you with great respect, and I confess I was highly flattered by the regard with which you seem to have excited her. She spoke of your willingness and anxiety even to follow my fortunes in this distant land, but in that she could tell me nothing more than I already knew. She went on to urge me with her woman's zeal and eloquence to bring you out here at once, to build a house beside her husband's, so that you and she could enjoy all the pleasures of good neighborhood. For a time she half disordered my judgment by her enticing pictures, and I was more than half inclined to speak the word that should bring you and my daughters to my side. But I have taken time to reflect, and *have* reflected on the subject fully, and much as I desire it, am compelled to believe that it would be injudicious, all things considered, for me to utter the summons which I should be so glad to utter, and which you would so gladly hear.

Park has urged me by all means to dismiss all thought of returning at the end of my year, but I still remain in doubt as to what course I shall take in that particular, though the probability is that I shall not return until a year from next fall. I came here for a definite purpose and in coming made a great sacrifice of business prospects at home for prospects that were opened up to me here, and as my most sanguine expectations have been more than answered, I feel that I ought not to prematurely abandon that for which I left my home and which is now apparently within my reach and almost within my grasp. Should I, however, make up my mind in the course of the summer to stay longer than one year from next fall, then and in that event I shall take measures to have you and the girls come out here at once. I have calculated my own powers of endurance, and cannot subject myself or family to the wear and tear of a longer and indefinite separation. At present I shall be compelled to leave the matter as I have already presented it, hoping that we shall both be able to make those further sacrifices that circumstances may seem to demand.

I am in good health, and my spirits do not fail so far as to disqualify me for a hearty prosecution of the business that I am in. I do not have to work so hard as I used to, not because there is not as much to do as ever, but I of course transact business with more facility than I could immediately after my arrival. . . .

Your affectionate husband,

O. L. SHAFTER.

From Diary.

JUNE 24, 1855.

I have passed a pleasant Sabbath alone in the library. It has been with me a day of solemn yet hopeful meditation. I have read the Bible, a book that I have for many, many long years sadly neglected, and as I read the feelings and beliefs of my early youth were revived within me, and the familiar voice of my Mother seemed to me to utter the words inscribed by inspiration, and the forms of the holy men that taught me once how to live and how to die, seemed to gather around me. I have frequently of late opened the Scriptures at random, and in almost every instance the chapter or passage upon which my eye has first fallen has contained something strikingly appropriate to my own circumstances and spiritual wants. Today it fell upon one of the Psalms of David, and I read as follows, "Stand in awe and sin not. Commune with thine own heart upon thy bed, and be still. Crawl not like a worm, stagger not like one in delirium, fly not like a coward, but stand erect and firm." But stand in awe! How much is there to awe the heart of man in the visible of creation in the earth and in the heavens! But in the contemplation of *himself* there may be revealed to him deeper mysteries and a yet greater glory, visiting him with an awe yet more profound. But more than all these he should "stand in awe," for he standeth ever in the presence of God.

Yet it is not enough that we stand in awe. We must not sin. Nor will this suffice; the injunction is, "Commune with thine own heart upon thy bed"; that is, when the interval of labor is over, the mind has a season of rest. The concluding words, "be still," express not so much a command as a promise of calm and heavenly repose to ensue.

Oscar L. Shafter to his brother James McM. Shafter.

San Francisco, June 29, 1855.

Dear Brother:

Mastick has just been in and informed me that he has concluded to go into partnership with you if you desire it, and on the terms designated in my last. You had better send on your books, and Mastick says that he will buy into them, one-half, if you wish it, or will allow you for the use of them in account. He is in the way of arranging his private affairs as he thinks, so that there will be no danger of embarrassment to the business of the firm by any slips in his own matters. He is understood among his acquaintances to be well off. I know that he has excellent business capacities and habits, and that he is doing a very good business. There is some depression in law business just now and all the firms in town are affected by it more or less. Mastick wishes me to say to you that his own business has not diminished in amount, but that his receipts in *cash* for the last two months have averaged about $600 monthly. He says he has all *he* can do, and that if he had a man of the right stamp with him his business would be very much increased. And in that I fully concur.

In view of the circumstances to which you have heretofore called my attention as affecting the eligibility of further life and endeavor in Wisconsin, I am prepared on the whole to advise you to come out here. During the summer season we have rather a high and harsh wind from the ocean in the latter part of the day, and it is generally considered that it is unfavorable to those who are affected with pulmonary complaints, but should you find it so in your own case, there are other points in the State every way desirable that are entirely free from this objection. It is understood that your arrangement with Mastick is to subsist during the pleasure of the parties. I thought it would be best to put it in that shape, so that we might be at liberty to go into business with each other whenever the opportunity shall be fairly presented. . . . Park and family returned by the last steamer and we are full of business.

Write by return mail.

Your brother,

O. L. Shafter.

Oscar L. Shafter to his Wife.

San Francisco, July 15, 1855.

Dear Sarah:

. . . Last night I was in court until 12 o'clock, engaged in a cause of great consequence, and feel today somewhat dull and exhausted. Park since his return has made open war on his enemies at all points, through the papers and through the courts. Two days ago he was knocked down in the streets by the brother of one of the men whom he is, as I think, very properly pursuing, and his face was very badly bruised. This warfare is leading to all sorts of entanglements and complications, and you may be assured that I have my hands full. I have to be at the head of the battle one moment and at the rear the next, and am kept constantly flying from point to point along the line. It is a kind of litigation that I have little taste for, but business is business, and there is the end of the matter.

I was much concerned to hear of the death of Nelson Fitch. We were personal friends of long standing and our mutual friendship had taken on the quality of steadfastness. His brother (Dr. Russel Fitch) called on me this morning. He had received a brief notice of Nelson's death from Mr. Harris. I was enabled to add somewhat to his information by reading the short allusion to him contained in the letter from Emma. He will soon be the last of his father's house, and the impending evil weighs upon him. He took me down this morning to see the steamer with which he is connected as surgeon, the "Uncle Sam." It is a splendid vessel, sweet as a rose and clean and wholesome as your buttery, and his own rooms are very pleasant and nice.

There were 45 deaths on board the J. S. Stephens from the cholera, on her passage up. The fact has leaked out this morning and there is a good deal of irritation in the public mind for the reason that none of the papers have noticed the matter. The silence is doubtless the result of an understanding between the Press and the Steamship companies. Forty-five burials at sea in the space of only 12 days! Only think of it. A month since, the dead left their families and friends in the East and started with high hope for this distant Coast, but life's fitful dream is over with them now—all over. But how will it be with the friends that survive to bewail them? They will expect letters from the wanderers by the steamer that will leave here tomorrow, but the expected tidings will not come. They will read instead a list of names of those who "died at sea," published in some New York paper, and in it each will find the name of his or her friend. My heart is with the mourners and bleeds for them before they are apprised of their own woe.

You asked me some time since if I chewed tobacco. My answer is that I do. I found after my arrival that I could work much better with than without it. It doesn't hurt me any; of that I am entirely confident. You have asked me also if I wore my beard. My answer to that home thrust is that I shaved it off soon after my arrival, but about a fortnight since I stopt shaving, and the evidence of manhood, as it has been called, now measures about half an inch in length. It is all natural, too, even to the color. I hate false appearances, and above all abominate the trouble of getting them up. Billings says that about the head I look like a Grizzly bear. Well, I am about up to my climacteric in years, but I feel firm and buoyant as when but five and twenty.

Jim will be out here I suppose by September, and as you will readily believe, I shall be most happy to see him.

I am glad you wrote me so particularly about matters and things and events at home. I have been almost unconsciously thinking for the last five minutes how pleasant the kitchen must look with its coat of whitewash newly laid on. It made me feel good all over to hear that you had the shed almost full of wood, and as for that pig, I have taken a great liking to him and shall continue to feel a lively interest in his welfare until he is fairly in pickle. Tell the children that I continue to be pleased and refreshed by their pictures. Say to them that the dumb-bells are two iron balls connected by a bar of iron about four inches long, and, by the way, I want you to send to Brattleboro the first thing and get a pair for the girls. There is nothing like them for developing the chest. They should take one in each hand and swing them back and forward half an hour each day. Give my love to both of them and tell them to be good girls. Give my love also to Mrs. S., Mrs. F., Mrs. B., Mrs. G., and all the women, but always with their husband's permission first had and obtained. But give it to Mrs. R., Mrs. O. S. and Aunt S., and Mrs. D., whether their husbands consent or not.

Your affectionate husband,

O. L. SHAFTER.

Diary.

JULY 20, 1855.

The state of society here does not improve. A few days since a shameful assault was committed upon the French Consul, and the Recorder inflicted a fine of only $25.00 on the offender. Since that there has been a great harvest of street fights. The sentence referred to was but a public proclamation that any one wishing to indulge in the luxury of personal vengeance could be gratified at an exceedingly low rate of charge, and the work of redressing one's wrongs has thriven amazingly ever since. These disorders will be bruited abroad throughout the civilized world, and will add to the opprobrium already gathered upon the head of this devoted State. The results will appear in a diminished immigration, and in a general weakening of all desire to remain, among those who are now here. The class of emigrants which California most needs: the hardy, respectable and sober-minded yeomanry of the Eastern States, will never emigrate to this country with their families so long as there is nothing wherewith their own heads can be kept whole except by their own hands. The advantages which this State holds out for the accumulation of material wealth are well understood, but the frenzy which the discovery of gold everywhere induced is over. The world is again restored to reason, equinimity, and self-command, and the terrible lawlessness which continues to prevail here exerts a most powerful influence, I think, to prevent our population increasing.

Captain Joseph L. Folsom died last night at the age of 39 years. He was accounted the wealthiest man in the State, but his property is all held by titles more or less uncertain. For the last five years he has been engaged constantly in lawsuits and broils, worried, vexed, and harried to death. He was a man of fine intellect, and of great force of character. He was graduated at West Point, and was one of the first emigrants to this State. He was a native of N. H., and I understand has left no relatives but a mother and sister resident in Ohio.

Oscar L. Shafter to his Wife.

JULY 28, 1855.

MY DEAR WIFE:

With my general theological opinions you are acquainted; they have undergone no essential modification, or change. They are the opinions which the lamented Dr. Channing has so fully illustrated in his sermons, and of the profitableness of which his whole life is a beautiful and all but faultless exhibition. Those doctrines reveal God to us as our Father, our

Father in the highest and profoundest import; they further inculcate that He has a will concerning us; they give to that will the authority of law; they recognize human obedience as a duty, and make certain fixed consequences result from obedience, and another set of consequences the unchangeable and inevitable fruit of transgression. They teach us that the conditions of happiness in the future life are the same as those of the present; that death is a material change only, and that the soul enters upon the future life with the same character it bore when it left this; that in the world to come, it will advance, if it advances at all, by the same means that it works out its own character in the world that now is. But these doctrines further reveal to us that in the progression of the Eternities of God, the soul will of its own intelligent election cease from its warfare against its own highest good, and, ceasing to do evil, will learn to do well at last. In these views there are presented most powerful motives to present obedience. Whatever purification from sin and its contaminations is accomplished here, but hastens the hour of completed regeneration hereafter, while every evil act performed here, every evil thought indulged here, but delays and postpones the period of redemption. This theory of rewards and punishments recognizes the great primary truth of human accountability; presents adequate encouragements to virtue, and discouragements to vice; invests the soul with all needful powers for the achievement of its own highest good, and by making the ultimate attainment of that good an universal truth, vindicates at once the goodness and the wisdom of God in man's creation. Emma asks, "Why are the young and beautiful snatched away, and the aged permitted to remain?" It is a question that has often, very often, been asked before, and the most satisfactory answer that I have ever heard is, it is the *will of God.* We are born to die, and to die is but to live again; we live here then simply that we may live hereafter, and that final, that higher, better and truer life is sure to follow life here irrespective of its *duration.* The little child whose span is told by months alone is as sure of its immortality as the grown man who dies weary and worn with the weight of years; the latter dies amid the shadows of evening, following the endeavor and the exhaustion of a lengthened day; the former in the dewy freshness and soft effulgence of the early morning; this is the only difference. God wills it, and my daughter must reflect that He doeth all things well. I am more than gratified that you have learned what it is the end of all trial to teach; the futility of earthly hopes, and that all substance, all reality, are beyond the bourne to which we hasten. Yet life here should not be set down as unimportant and valueless, for it is one of the appointments of God, which He has brightened with prospects and ennobled with duties. They should be cheerfully and faithfully performed. They press upon us from day to day, we wake to them every morning, they challenge our attention and our efforts every moment, and wait patiently upon our slumbers during the silence and darkness of night; they should be performed cheerfully, courageously, and in the patience of hope. There is impiety in saying, "I am weary of life"; while it is continued it should be cherished and improved. Viewed in its just relations to that which is to come, its importance is magnified and its deeper import fully revealed. . . .

Your affectionate husband,

O. L. Shafter.

Letter from Oscar L. Shafter to his Father.

San Francisco, Aug. 16, 1855.

Dear Father:

The mail steamer due on the 13th inst. has not yet arrived, and much solicitude is felt concerning her. I of course shall receive letters from my family and it may be one from you also. I am very well bodily, and not diseased in mind, as I trust—have constant occupation and am surrounded with agreeable and pleasant friends.

The firm of Halleck, Peachy, Billings & Park was dissolved yesterday. The first three gentlemen go on together. Mr. Park establishes *himself* under the firm of *Shafter & Park*. There was a good deal of hauling and pulling between the three and Park with regard to myself. The simple truth is I have done everything and had charge of everything since I have been here, and neither could get along very well without me, and for three weeks before the dissolution took place both sides were moving upon me. I told both sets of solicitors that by reason of my connection with the firm I had enjoyed opportunities of becoming acquainted with their joint clients, and that I could not under any circumstances take service with either without the consent of all; it was a matter for them to *arrange,* and not for me to decide. They tried to make such an arrangement, but failed, and I found that if I persisted in "masterly inactivity" it would be productive of serious embarrassment to them all, and so when they informed me yesterday that I *must* determine the question. I did so and concluded to go with Park. Both parties tendered me a present partnership and on terms of entire equality, but not being fully settled as to my own plans I declined forming the connection.

I went with Park for the reason simply that the firm was dissolved by the action of Mr. Peachy on the ground that Park, when knocked down in the street some six weeks since, refused thereafter to waylay his assailant and shoot him in the streets, and for the further reason that when challenged to fight a duel some four months since, he declined the challenge. On many personal grounds it would have suited me very well to have remained with the three, for they are men of great amenity of manners, of much talent and cultivation, and my relations with them have ever been of the most intimate and friendly character. But I approved of the conduct of Mr. Park in those points whereon he was held recusant by Mr. Peachy, and couldn't find it in me to desert him when left at liberty by them all to determine my own action; to have done so would have been to dishonor the principles in which I was bred.

The partnership between Park and myself is an ostensible one merely. He desired it supposing it would be attended with some consequences favorable to himself in the way of keeping or getting business and in saving him from a popular suspicion of having been discarded by the firm. He pays me for the residue of my year a liberal sum, in addition to what I was receiving from the firm, and gives me the privilege at the end of the year of taking one-half of our joint earnings instead of my salary for the three months that remain of my year. At the end of my year I shall have $13,000 here in cash, which at interest will for another year produce one-fourth of itself. In view of these advantages I shall probably remain another year.

There is a growing spirit of turbulence and disorder here. Murders are almost nightly occurring in this city, and in the mining regions there is a general carnage all the time in progress. Sometimes the Indians are the victims, again it is the poor Chinese, just now it is the Mexicans, and not unfrequently the dominant races pitch into each other for the fun of the thing or to keep their constitutional appetite for injustice and havoc, keen. The State election comes off on the 5th of next month. The Democrats have nominated Bigler, who is understood to be an Anti-Administration man. Their only opponents are the Know Nothings, a party here most thoroughly debauched and worthless, made up of mere plunder hunters and camp followers by profession. Their convention is now in session in this city for the purpose of making county nominations. They have been hard at it for the last two days and nights, but make little progress. The great trouble is that all the members of the convention are candidates for office, and no two can vote together without one voting against himself.

. . . I shall expect to see Jim due in the course of six weeks. His partner is waiting very impatiently for his arrival. He is a very fine fellow, doing a very good business indeed, and I think Jim will like him and the connection very much. . . . Believe me your affectionate son,

O. L. Shafter.

OSCAR LOVELL SHAFTER

Oscar L. Shafter to his Wife.

SAN FRANCISCO, Aug. 17, 1855.

MY DEAR WIFE:

This morning I have been tendered a partnership by Lake & Rose, one of the best firms in the city. Park will pay me $10,000 for another year, or will go into a partnership, but I do not intend to *drive any stakes* at present. Jim will probably be here in the course of six weeks; it will be a great relief to me to have him here, and I, as well as his partner, am awaiting his advent with much impatience.

The city and country are full of venality, violence and blood. The elections for State officers take place on the 5th of September, and conventions and mass meetings are the order of the day. The campaign has fairly set in, and has already developed in conduct the bad passions which it had previously enkindled.

Hardly a night passes without a murder or some flagrant assault. In the mines civil war is raging between the Americans and Mexicans, and each is apparently endeavoring to exterminate the other with fire and sword and without respect to sex or age. But there is no difficulty in getting along if a man minds his own business and drinks cold water.

About a week since, as I was seated by a window in our office, writing, an explosion took place on the opposite side of the street and about 30 feet off. The place where the explosion occurred is kept by a German money lender with an exceedingly hard face and unpronounceable name. One of his debtors, a Frenchman, whom he was pressing hard for payment, went into his office with a carpet bag containing twenty-five pounds of gunpowder. There were five or six men in the office and several families in the second and third stories of the building. The Frenchman told those in the office that they must leave or he should blow them up. They supposed that he was merely vaporing, began to laugh at and banter him, whereupon he laid down his magazine, drew a revolver, and fired it once directly into the carpet bag. I felt the concussion and heard the noise of the explosion before it had spent its full force on the building, and on looking out of the window, saw the doors, windows and furniture hurtling through the air. In an instant those in the office rushed out into the streets, but as luck would have it no one was injured except the Frenchman, and he not very seriously. He is now under arrest. This new way of "paying old debts" was generally received as a most capital joke—the very best indeed of the season. And if the building had been blown to atoms and all in it had been buried in the ruins, it would only have swollen the tide of popular merriment and applause. The Frenchman will be prosecuted, I presume, but I have no hesitation in predicting that he will be "triumphantly acquitted."

Capt. Folsom, one of our clients and the wealthiest man in California, died a short time since. He was a bachelor of about 38 years. He came out here before the Conquest as a Captain in the United States Army, and by a series of fortunate speculations in real estate succeeded in dying with the reputation of being a millionaire—a very questionable success, you will perhaps think, but it was apparently the only thing that he lived for, the only distinction that he valued. He had a magnificent funeral awarded him by his executors, Messrs. Halleck and Peachy of our firm,—there was nothing wanting in the *panoply* of woe. A whole regiment of mounted artillery, infantry and cavalry, accompanied with band after band of martial music, swept by in the procession, led by General Wool and staff, all in full uniform. The Society of California Pioneers and the Free Masons with all their badges and regalia were in line, and a long array of carriages with horses burdened with the weight of mourning emblems. But very likely in all the vast parade there was not a solitary eye that moistened with one solitary tear. They buried him in Lone Mountain Cemetery, towards the Sea.

Your affectionate husband,

Oscar L. Shafter.

OSCAR LOVELL SHAFTER

Letter from Oscar L. Shafter to his Wife.

San Francisco, Sept. 1, 1855.

Dear Sarah:

Yours of the 29th July just received. Mr. Davenport wrote me by the same mail, and has proposed to buy my office, Law Library, office furniture, Turnpike stock, and my interest in our partnership, and I have just finished a letter to him accepting his offer. I have furthermore directed him to dispose of the carriages and harnesses and of all our livestock for cash, and have sent also a Power of Attorney to Calvin Park of Bennington authorizing him to execute all the necessary papers.*

I agree with you that I ought not for any existing reasons of an economical character to live longer separated from you and my children, and never contemplated so doing beyond a single year. I have at length made up my mind to remain here until my object in coming shall have been secured, and you may begin at once your preparations for a voyage to California. I long to have you and my dear daughters with me beneath the same roof once more. When I was writing to Park and Davenport I thought I would not have you bring anything wtih you but your necessary baggage, but on further reflection I have concluded to have the piano and my private library sent out via Cape Horn.† Park will be at W. at an early day to advise and assist you in your arrangements.

Sept. 2, 1855. Mr. Park has persuaded me that it will be advisable to bring out our furniture. You and Calvin must determine upon what to bring and what to leave. I would suggest *all* the parlor furniture, carpets, beds and bedding, crockery, chamber furniture, odds and ends, so that we shall not be under the necessity of buying much here. Eschew bandboxes and other small pieces; put all of your plunder in trunks that you take with you across the Isthmus. I shall probably buy a lot and build a house, but on that matter have not as yet fully made up my mind. I shall send the girls to school here and give them every advantage that the country affords. Put up their school books in your trunks. Don't work yourself to death, now, in getting ready to leave, but get some good woman to help you. . . .

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*This action disposed of Mr. Shafter's law office in Vermont and effectually severed his business and professional connections with the old home.

†This piano, one of the finest instruments of its day, and a most interesting relic, is now at Mrs. Howard's bungalow in Inverness, adjoining the great Shafter Ranch.

Give my love to the little girls and my warmest regards to all.

From your affectionate husband,

O. L. Shafter.

It is easy to see whence Mr. Shafter inherited the indomitable energy which was one of his marked characteristics, by the following extract from a letter to his own aged father, dated San Francisco, Sept. 1, 1855:

"Mary wrote me from Wilmington, and she says that you work yourself nearly to death. Now, father, there is no need of your doing so. Do not go after wood in the winter up on the mountain. Get some one to do it for you. It is as much as you ought to do to chop it after it is laid down in the yard. I subscribe fully to your favorite dogma of 'wearing out instead of rusting out,' but it would be best to do neither."

Oscar L. Shafter to his Father.

San Francisco, Sept. 2, 1855.

Dear Father:

I have just received your letter of July 20, with the paper giving an account of the proceedings at Ludlow. You probably will not be elected, but I consider your nomination a deserved compliment, and the mention made of you editorially entirely merited. I have cut out the notice and shall paste it in my diary for the benefit of my posterity. I am inclined to think if we had among us more *facility* of character, that we might some of us come to preferment; but as it is, it is some distinction to be pursued with *nominations* to high positions.

Almost everybody drinks here, and when I first came here I was constantly annoyed with invitations to "take a drink," but for a long time past I have been free from such solicitation. I am known as a total abstinence man, without a peradventure. On the slavery question I have not lowered my topsails by a hair. I have never sought controversy, neither have I shunned it. Peachy is a Virginian and our library is a place where the Southern lawyers do greatly congregate, and they are prone to talk upon the one great subject and I have had very many discussions with them. They are *men*—every inch of them—frank, bold, earnest and inclined to be just, and they appreciate these qualities in others. My closest intimacies and warmest friendships are with Southern men. I find that between myself and them there is on the whole more of sympathy and general correspondence than between myself and the cowardly, time-serving immigrants from the North. I have tried to make them understand that their best friends at the North are the original anti-slavery men, and they are half inclined to believe it. One of them, some little time since, with a full knowledge of my principles, tendered me a partnership.

Your affectionate son,

O. L. SHAFTER.

Oscar L. Shafter to his Wife.

SAN FRANCISCO, Sept. 15, 1855.

MY DEAR SARAH:

Yours and Emma's and Mary's letters of the 15th of August came to hand by the steamer Golden Age, on the 12th inst. I shall receive two more letters from you before mine will reach you containing my summons to you to join me, with our children, on this distant coast. I have also had a letter from James, by the last mail, dated at Sheboygan, Wisconsin, in which he informs me he shall not leave before the 5th of November. This is very pleasant news to me, for I now know that you will have the benefit of his escort. You must all come by way of the Isthmus. The advantages of that route over the other are obvious. In the first place the land transit by the railroad, which is now fully completed, will be accomplished in a few hours. In the second place you avoid the Civil War which is in progress on the Nicaragua route, and in the third place the Panama route is the more healthy of the two. In fact there has been no sickness whatever on that route for the last year, except such as could be traced to indiscretions or excesses of passengers as its cause. The steamer "Uncle Sam," belonging to the Nicaragua route, came in yesterday. She had lost 120 of her passengers on her passage, by the cholera. The Uncle Sam is the ship on which Russel Fitch sails as physician. I have today called upon him in his stateroom, and he has given me an account of the workings of the plague. He is very much exhausted by the vigils and anxieties to which he was subjected, and is coming ashore to recuperate. You must avoid the Nicaragua steamers, and there will be no danger from the pestilence. Refrain from eating fruit. Eat and sleep as you eat and sleep at home. Keep your mind quiet and filled full of hope. Interest yourself in reading and in writing to your friends. You can leave letters at the Isthmus and again at Acapulco. You had better provide yourself and the girls with everything that you will need for two or three years in the way of clothing. Such necessaries can be procured cheaper in the East than here.

If you leave New York on the 5th of November you will arrive here about the 1st of December, right in the midst of the rainy season. But though rainy, yet the rain is not continuous. On the whole that season is more pleasant than the dry season. The ocean winds and the fogs do not prevail then, and the temperature is more equable and the air more balmy.

Do not work yourself to death in getting ready for your voyage. Call in all the assistance you may need, and thus diminish your own labors as much as possible. You will have enough to do even then.

I am in fine health and spirits, and am looking forward to the hour when I shall meet you and my children *at the water's edge.*

Remember me to father and mother Riddle. For their manifold kindness to all of us during the last thirteen years I am deeply grateful, and as some small expression of my gratitude you may slip into your mother's hand the sum of one hundred dollars before you leave.

Give my regards to all my old neighbors and friends.

Your affectionate husband,

O. L. SHAFTER.

With the cholera raging in Pacific waters and on Pacific Coast passenger steamers, and in view of the many dangers of sea travel impending in that day, it is not surprising that this father should view with apprehension and even downright alarm, the prolonged journey, by water and by land, which the young wife was about to undertake, accompanied by the two who had been spared out of his family of seven children.

Extracts follow from the last letter written by him to them before their coming.

SAN FRANCISCO, Oct. 4, 1855.

DEAR SARAH:

. . . . This is the last letter that you will receive from me prior to your departure. I shall receive one more from you prior to your arrival. It will come to hand, if nothing befalls, on the 12th inst. The interval between that date and your coming, will be one of deep solicitude. I already begin to be visited with it, and it must inevitably increase from hour to hour until I hail you and my daughters and my brother, from the *head of the pier*. I shall take my station at that point. Remember that. I shall be clad in light pants, buff vest, and snuff-colored frock coat, with a broad-rimmed white sombrero on my head, and if I recognize your party by the display of three white handkerchiefs at the stern of the boat on the upper deck, I shall remove the sombrero aforesaid from the head aforesaid and swing it as mortal man never swung hat before. If you get in in the night, remain on board until I call for you in the morning.

Buy in New York "Panama in 1855," a book recently published and which I think will very much add to the interest of your transit across the Isthmus.

Tell James that I have just seen Mr. Mastick, and he assures me that he shall write by this mail, directing his letter to Wilmington. He says that he is overrun with business, and is waiting for the arrival of his partner with great impatience. By the time you arrive here I shall probably have a house built ready to move into. This however is not absolutely certain.

And now, my dear wife and daughters, Good bye. God bless you all and save you from whatever of peril you may be called on to encounter. Give my warmest regards to the whole town of Wilmington, and tell our friends I live in the hope of seeing them all again.

Your affectionate husband,

O. L. Shafter.

Oscar L. Shafter to his Father.

November 19, 1855.

Dear Father:

We are now just entering upon the rainy season. I do not know how it may be with you, but I came here with the impression that clouds and darkness and mud puddles, and continuous drizzlings were the order of the day during the rainy season, but in the matter of that foreboding I have been most happily disappointed. Of the two seasons, the rainy is the most pleasant by far, as well as the most profitable in every department of occupation, and is, in short, very much like a New England May, all smiles and tears.

The state of society here is improving, but is still in many respects most deplorable. Tippling is a prevailing vice among all classes, and but little has been accomplished as yet in the way of checking it, and here, more than elsewhere, the habit has been the prolific parent of disorder and crime. On the evening of the 18th inst. the U. S. Marshal was shot down in the street. Rum was at the bottom of the riot. The Courts have all adjourned to-day in honor of the Marshal, rather than in honor of the man. The funeral comes off in the Church of Dr. ———, the great slave-holding, wine-drinking parson from New Orleans, imported by the chivalry for the purpose of propagating a corrupt and debasing Christianity. I predict that in his sermon he will fail entirely to detect and enforce the great moral of this rum murder. I have hardly seen the inside of the Church since I have been here. I have tried it in some few instances, but it did me more hurt than good. Latterly I have numbered myself in the congregation of old Father Taylor, a street preacher. Every Sunday at 4 o'clock P. M., he and his wife take their station on the northwest corner of the plaza, and begin to sing the old songs of Zion that we were familiar with in our youth. He has one of the most powerful and melodious voices that I have ever heard, and it is highly cultivated, withal. The crowd begins immediately to collect, the houseless, the friendless, the abandoned, the desperate, the despairing, the curious, the devout, the sincere, and all who love to worship, or see others worship in the duty of holiness, come pouring into Portsmouth Square in answer to the songs of the good old parson. There are none that need go empty away. He understands the community in which he lives, and all the diversities of character that enter into it; he knows the avenues to the human heart, and understands and feels all the truths that he preaches. His influence is felt along the wharves, at the Seaman's Bethel, in the plaza, in the prisons and hospitals, and everywhere in short where human suffering is to be relieved, and human guilt is to be alarmed or shriven. I like him, and have elected him my Minister. He is doing more good than all the other Ministers in the city put together.

My notions of this country remain unchanged. It is emphatically a great country, there is no other like it, as it has not one or two or three, but all the conditions of a perfect clime. The idea prevalent at one time that it could never have an agriculture has been completely exploded. In agriculture, in commerce and in all the arts it will, in the end, be as pre-eminent as it now is in mineral wealth. Its climate is that of the South of Europe, or of a Vermont June, and its native born will never be able to live or die away from here.

Your son,

O. L. SHAFTER.

V

FRAGMENTARY RECORDS OF AFTER YEARS

Oscar L. Shafter to his Father.

SAN FRANCISCO, Jan'y 1, 1856.

DEAR FATHER:

You have already been advised of the safe arrival of James* and my family. James is boarding at the "Brannan House," and I, with the residue of the immigrants, am stopping with Park. We have very comfortable quarters, and are in all respects very pleasantly located. But the daughters of Eve are proverbially fond of dominion, and men, as sons of Adam, are not altogether free from that passion I must confess; and so, when our furniture arrives, I think we shall go to keeping house.

Jim "struck out" boldly on his first arrival. I was in court in a few days after his advent, and found him on his legs, spinning a yarn with admirable point and *most marvellous volubility*. I can see that his partner is very much pleased with him, though he has as yet said nothing to me on the subject. Mastick has all along been doing a capital business, and under Jim's leadership I have no doubt at all but their business will improve. He seems to be very much pleased with his condition and prospects.

I and Edward Stanly, formerly Representative in Congress from North Carolina; Park; Judge Hager of the 4th Dist. Court, and H. M. Nayler, receiver in Alvin Adams vs. Haskell & Woods, were all sued a short time since in an action of false imprisonment, by Jones of the great banking house of Palmer, Cooper & Co.,—claiming damages to the amount of $100,000. Palmer, Cook & Co. had assets in their hands belonging to Adams & Co. to the amount of about half a million. On the 1st of December (1855) Hager made an order upon them to deliver these assets to Nayler the receiver. They refused to obey the order, and we proceeded against Jones for a contempt, and he was committed. He sued out a writ of Habeas Corpus from the Supreme Court and on a full hearing he was remanded on the ground that the imprisonment was lawful, the Court having jurisdiction to make the order which Jones had disobeyed. They have now sued out a *certiorari* for the purpose of having the same question tried over again in a new form and in the meantime have sued Hager and all the counsel in the case as before named. The suit is a mere farce and is everywhere the subject of derision. Park and I appear in the case by Shafter and Mastick, but the case will never be tried. We had no further connection with the imprisonment than what is involved in a discussion of questions judicially presented. The question of jurisdiction has however been settled by the Supreme Court in the Habeas Corpus case.

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*James McMillan Shafter.

There are three in our firm, and any one of us can take a case from the stump and carry it through to a conclusion in the court of last resort, and there is no other firm in the city of which that can be said, they being generally organized with reference to a division of labor. We have three clerks, and all of us are constantly employed, and have to do a good deal of night work at that. Our business furthermore is steadily increasing, and it is everywhere admitted, as I am informed, that we are the first firm in California. I am sound and hearty as a brick—call on Jim every day almost to see how he gets along, and he drops in now and then to see Sarah and the children. I have read the papers you sent by Sarah with much interest. I subscribe fully to all the commendations extended to you—your principles and your career. The articles will go into my Diary with the others. Keep the Flag flying to the last! . . . .

From your son,
O. L. SHAFTER.

Extract from letter, Oscar L. Shafter to his Father.

March 4, 1856.

We have had a long protracted warfare about the affairs of Adams & Co. The strife has been exceedingly embittered, but so far the adversary has been beaten at all points. The thing is not yet concluded, however, but we can at least see the beginning of the end. The false imprisonment suit that I wrote about in my last has been discontinued upon the record by the party who brought it. We brushed him right up to a trial, and in California phrase, "he backed down." We are doing the largest business of any firm in the city, and the most profitable, but there is work in it, I tell you. Day in and day out, night in and night out, without a moment's rest or relaxation, is but the average tenor of our experience, but this mode of living and breathing will have an end with me before long. As soon as I get what may be called a reasonable competence I shall just throw up my hand and come home.

Diary.

1856.

I go this afternoon to Sacramento to argue out March cases again before the Supreme Court. A re-argument was ordered for the benefit of the successor of Judge Murray, deceased. It is a great case in every sense of the term, the amount in controversy is large, and the questions involved are numerous and not free from a show of difficulty. McDougal, ex-member of Congress, and Governor Weller are on the other side, but I have crossed weapons with them before, and oftener still with their peers, and do not fear them. Business is good, but the time has come when a man has to work for his money, and this is a state of things rather to be desired than deprecated.

SAN FRANCISCO, April 4, 1856.

DEAR FATHER:

I do not know whether Emma is intending to write you by this mail or not, having forgotten to ask her before leaving for the office this morning; but even if she should, you perhaps will be inclined to think that a letter from me is nothing worse than too much of a good thing. California is now rejoicing through all its borders in consequence of recent rains. The showers have not been copious enough to aid the miners materially, but the effect upon crops has been all that could be desired. This is rapidly becoming an agricultural state and is destined to be a permanence in agriculture as marked as in the business of gold-mining. Already the importation of provisions is pretty much ended and the period is not very remote when the products of our soil will be found in half the markets of the world.

Free soil is beginning at length to exalt its cause in California. A paper has been established in this city which advocates that doctrine, and with great boldness and power. I gave the paper $100 the other day to help it over a sand bar on which it was in danger of grounding.

The Whig party is annihilated. It is without leaders and without organization and has all but forgotten its traditions and name. The Democratic party is hopelessly divided and is utterly demoralized. The better portion of its membership is deeply imbued with Republican opinions and there is here as elsewhere a half developed conviction among the politicians of the Democratic school, that the days of the Democratic party as now modeled and directed, are numbered. This notion I doubt not will be with them a great aid to virtue.

Jim is with us as you know, and his services are greatly commended by us all. Our business is still at high flood. My own function will hereafter be confined in the main to looking after questions of law in the District Courts and to cases in the Supreme Court. The jury business will be divided up between Williams, Park, and Jim.

PLATE VI. Emma Lovell Shafter, at seventeen
from old Daguerreotype

The children are attending school and seem to enjoy themselves greatly. Sarah is well, and on the whole is, or at least maintains that she is, greatly pleased with life in California. But Jim is more than half persuaded that the day of our return will not, when it comes, be altogether unwelcome to her. I am quite certain that it will not be to me. Do not understand from this that I am ill at ease, however, for I am not. Still I have an abiding wish to live and die among kindred and friends in the old ancestral county.

Give my love to mother. We read her letter with great satisfaction and shall hope to hear from her and you often.

From your son,
O. L. SHAFTER.

One Sunday, the 4th of May, 1856, little Mary Shafter undertook to write a letter to her grandfather, but the cramped little hand soon tired of its enterprise, and after a few stilted lines she concluded "I must say good by." The father, seeing the large blank sheet, took up the child's unfulfilled task, writing genially as follows:

SAN FRANCISCO, May, 4, 1856.

DEAR FATHER:

It is Sunday evening. Sarah and Emma are busy writing letters to relatives and friends. Mary, I see, has run against her own signature, somewhat prematurely, in attempting to follow suit, so it has seemed to me good to turn to for a few moments and help out the letter.

I have just hired a house at $55 per month for one year. It is new and not quite complete, but we shall be in it in a week. Jim will board with us, I think. We are getting on very prosperously and hope we shall be able to return before a *very* great while.

The Common Schools in the City are very fine indeed, and would do credit to any Eastern city. Our children attend one of them and are making progress that is entirely satisfactory. The public schools are about all that this City has to show for the millions that have passed through her treasury, and of them she may, even in the midst of the bankruptcies and vices, well be proud.

There is a great change in progress here for the better. The great fortunes have been dissipated, and the great rogues are dead or in exile or in prison, or if at large, withered and writhing under the ban of opinion, and the *common people* are now at work laying anew the foundations of the State. Industry, frugality and honesty begin to be remembered again, as having some proper connection with individual and social welfare. This change is further marked by a growing inclination among the people to terminate the vassalage of the State to the South, a servitude at once degrading and unprofitable. A Republican party has been organized and I predict that it will carry the State in the next Presidential election.

I see by the papers that you have had a very severe winter. Here such winters are unknown. In our vocabulary "wet and dry" occur where "hot and cold" are spoken at home.

Our business is at full flood, and consists of the heaviest kind of litigation that the city furnishes. . . . .

From your son,
O. L. Shafter.

Oscar L. Shafter to his Father.

May 21, 1856.

My Dear Father:

I have a few moments to say a word to you about the very remarkable events now transpiring here. I shall not attempt however any recital of what has been done, or of what is now being done. These particulars you will have fully detailed in the gazettes.

The City is now as gloomy and almost as silent as the city of the dead. You will be surprised doubtless that the death of one man by the hand of familiar violence should be attended with indications of regret so prevailing, and of a grief so earnest and profound. These manifestations are not confined to this city, but are everywhere displayed. The secret of the whole is, the popular belief that in James, King of Wm., the powers of evil had at last found an antagonist able to cope with and defeat them. There can be no doubt that he had fully inaugurated a Revolution that would have resulted in a complete overthrow of the men and measures with which this city and State have so long been cursed; but his death may be proved to be more useful than a longer life, for it has assured, if it has not already perfected great reform.

All who justify the action of the Vigilance Committee place the justification upon the familiar ground of Revolution, and maintain that they have as clear a case for the exercise of that right as can be found in the whole course of general history. It is somewhat difficult to conceive a case where the doctrine of Revolution can have play in a purely popular government, for it is doubtless true as a general thing that the ballot supersedes the bayonet; but here the ballot has never been anything but the veriest illusion. By a system of mingled violence and fraud the popular will has been habitually braved and battled by those who had seized upon the Treasury, and all the places of profit and power, and by their fraudulent arrangements they could indefinitely perpetuate their own tyrannical ascendancy. The City is now in the hands of the Revolutionists, for I can call them by no other name. Order, if not law, is maintained by 3000 bayonets in the hands of Northern men. The duelist, the bravo and the street brawler, and what is more, the ideas that they all have in common, are at a discount. I have not actively participated in what has transpired, for while seeing and deploring the evils with which society was afflicted, I could not fully satisfy myself that a case was presented that would justify a resort to arms as yet. And again I feared the consequences of a Revolutionary outbreak, but now I am measurably satisfied that these fears will not be realized.

Your son,

O. L. Shafter.

Diary.

JULY 3, 1856.

The popular outbreak here has taken on the impress of Revolution. A requisition has been made upon the General Government, and I have little doubt that it will be responded to. There are many minds here that have cherished the project of an independent "Pacific Empire," and they will avail themselves of the present state of things to accomplish this cherished project if there is a fair show for success. Judge Terry of the Supreme Court is still in the hands of the Vigilance Committee, and his trial is now progressing before that body. An effort has been made to compromise on terms that he should resign and quit the State, and while this plan was under advisement, it was proposed as part of the plan that I should be his successor. It is hardly necessary to say that I peremptorily refused to play the part assigned me as soon as I heard of it. The office is one which I would not accept under any circumstances, least of all would I step into it as a successor of a man who had been driven from it by popular violence, and for no crime but having forcibly resisted it. Business in all its departments is very much affected by the disturbances here, but in the long run it will be all right. We continue to do well, however, at present, but hope to do better when the supremacy and regular administration of San Francisco shall have been restored.

Oscar L. Shafter to his Father.

July 20, 1856.

DEAR FATHER:

We had a great ratification meeting last night, and endorsed Fremont and Dayton, and the platform to the full. I have strong hopes that the Republican Ticket will carry the State. The railroad question will have immense influence. The people of this state have dwelt upon the subject of an Atlantic and Pacific Railroad until it has become a kind of mania with them. It is universally understood that nothing whatever is to be hoped from the Democratic Party, and that everything is to be feared from it so far as the Railroad is concerned.

The slavery question also presents itself with growing prominence to the California mind. The Northern Immigrants are an immense majority, and on the somewhat modified phases which the slavery issue now presents, their views and resolves are in entire harmony with those of their brethren in the East. Leading Democrats are crying out at last all over the State, "off with shackles," and the rank and file shout, "Amen." The great resurrection of the patriotic and the just, which prophet tongues have predicted for so many weary years, is being realized at last. Glory to God in the Highest, peace on earth and good will towards men.

I send you papers containing the proceedings of our meeting last night. The reporters* have made me talk "miserably" for measurably, nonsensically at points and bad English at large. Not satisfied with these atrocities they have gone farther and have even attacked my good name.† The Vigilance Committee ought to seize the vandals and send the whole tribe of them out of the country. . . . .

From your son,

O. L. SHAFTER.

There must have been great comfort to a stricken sister when, upon the death of her husband after a long period of invalidism, the two California brothers hurried to reassure her against material anxieties and ills which otherwise would have added to the burden of sorrow she was carrying. The following letter, in several ways, is an exposition of the character of this remarkable man, so tender in his sympathies, so faithful to all the relationships of life, even to his solicitude for a stepmother, so enthusiastic in his political belief, which at that period was fired by the anti-slavery movement; so uncompromising in his stand for the law,

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*Query: Or the printers?
†Evidently referring to name misspelled.

even when his sympathy was wholly with the local faction arraigned against it.

Letter from Oscar L. Shafter to his Father.

SAN FRANCISCO, Sept. 1, 1856.

DEAR FATHER:

Yours of July 28th is received, informing me of the death of Dr. E. I was fully prepared for the intelligence by the tone of previous letters, and without hesitation assume all the duties which his death lays me under to my sister and her children.

Would it not be advisable for her to remove to Townshend? If she should, you could render important service to her in the management of her affairs, and then too she would be surrounded by her old friends.

Jim and I will forward funds quarterly adequate to all her wants. Ascertain if you please what amount will be necessary and inform us at an early day.

I am rejoiced to hear that Mother is recovering from her severe illness, and when you write again hope to hear that her recovery is complete. Our children and their mother feel the keenest solicitude on her account and desire to be remembered.

Jim has just returned from a business trip to the mountains. We are full of work and are getting a living.

The Fremont fever is on the increase here, and will soon be quite incurable. The State Convention has just adjourned. The meeting was numerously attended by the bone and sinew and was very enthusiastic. The nominations are very judicious and are made from a class of men who have hitherto stood aloof from politics. With proper effort the State can be carried for Fremont beyond doubt, and the indications are that there will be no lack of effort to accomplish that result.

The Vigilance Committee have adjourned but not disbanded. They have yet their organization, their arms and their Alarm Bell. Jim and I have stood aloof from the

"*Revolution*" on principle, not being by any means persuaded that a case for civil war was presented. But the palliations of the outbreak are numerous, strong and manifest, and I think very likely that permanent good will result from it. . . . .

From your son,

O. L. Shafter.

O. L. Shafter to his sister Laurette (Mrs. Ransom).

San Francisco, Sept. 19, 1856.

Dear Sister:

I received your letter some three months since, and ought to have answered it before. I have leisure and will delay no longer. Since the arrival of my family I have been in the habit of leaving business and business cares behind me at the office at nightfall, and passing my evenings at home. I therefore cannot plead anything in extenuation of my negligence.

Sarah arrived here in December. We boarded with one of my partners until the 19th of May, when we went to "keeping house." Sarah and the girls do their own work, minus the washing, and we are getting on very pleasantly indeed. Jim went into the partnership I arranged for him. He struck out right boldly and manfully and successfully withal, but finding that our own business was more than we could well manage, he dissolved his partnership with Mr. Mastick and came in with us for a year at a salary. At the end of the year and perhaps sooner, our firm will be reconstructed, and he will have a place in it. Our business is much larger than that of any other firm in the city, and Jim and I transact almost the whole of it.* Williams does literally nothing. Park is very serviceable in getting business, in doing the outdoor running, and in attending to financial matters, and is a very available business associate. We have four clerks, and they are kept constantly employed.

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*At this time General Williams was associated with Trenor W. Park and Mr. Shafter, under the firm name of C. H. S. Williams, Shafters & Park.

The fever of Revolution begins to abate somewhat in this City. The Vigilance Committee have withdrawn themselves somewhat from the public eye, but they have not disbanded, nor will they do so until all fears of personal consequences have been dispelled. At present they retain their organization, their munitions and arms. There is no evil without its compensation, and under this general rule it may be expected that there will be some advantages at least to be set against the heavy per contra resulting from the late disorders. The whole country is pervaded with a spirit of lawlessness. Between this and the Oregon line every highway is beset with robbers, and so inefficient or impotent is the Executive Department of the Government that no attempt is made to impede them in their depredations.

We are making a set effort to carry the State for Fremont and Dayton and with encouraging prospects of success. We have no slavery here, but the State is and ever has been in bonds to the slave power since the hour of its birth. It is edifying to see how deep-seated is the lust of Southern men for domineering. For that odious peculiarity they are indebted to their plantation training, but the days of their vulgar tyranny are numbered, and I rejoice in the belief that they will be ended in November. . . . .

Your affectionate brother,

O. L. Shafter.

Oscar L. Shafter to his Father.

San Francisco, Feb., 1857.

Dear Father:

We want to see you. If you and mother were here I should be at ease. We could make you very comfortable and I believe as happy as you could desire. I wish Newt was here and Mary and Hugh and Sol,—bag and baggage. But I can do not more than suggest what would *suit me*—the issues are with others, of course.

I have just had a regular Readsboro fight before a justice of the peace. The Evening Bulletin was complained of for publishing Mrs. Sickles' confession, and the proprietors retained us to defend them. The prosecution was started by the bitter enemies of the paper. The Magistrate will decide the case to-morrow.

Jim's folks are all well and so are mine. The children at both establishments are thriving nicely and neither Jim nor I, Julia nor Sarah, are growing old very fast. Boynton of Jamaica came out with John. We gave him some encouragement that we would hire him in a few months. He wishes to go into ranch life in preference to encountering the hardships and hazards connected with mining.

It is some time since we have heard from Mary. Tell her that she must not forget to write me nor to call upon me when she has occasion.

I see by your last that mother has returned from Montpelier and I hope with improved health. Remember us all to her. Write, please.

From your son,
O. L. Shafter.

San Francisco, Feb. 17, 1857.

Dear Father:

Mr. Brigham called on me yesterday morning and informed me that he should leave to-morrow for Vermont on a visit to his friends and I avail myself of the opportunity afforded by his return to write you a short letter. Our little Mary has been quite ill with putrid sore throat but is now quite well and is again attending school with Emma. Sarah is smart as a cricket and the babe is getting on finely. Jim, Julia and the boys are all in good health and Julia and boys are becoming rapidly inured to the peculiarities of California life. Jim, Park, myself and two others have recently become the owners of the best cattle ranch in the State, containing about 50,000 acres. It cost us about ——. You will readily find it on the map. It is situated on the "Punta de los Reyes," a peninsula jutting out into the Pacific just to the north of San Francisco. It is within three hours' sail of the City. The sea fogs keep up the feed the year round and as you will perceive, it is fenced by the Ocean. Jim and I went over there about a month since and are entirely satisfied with our investment. We are having some litigation about the title but have no doubt as to the result. Judge Heydenfeldt, who recently retired from the Supreme Bench, is one of the gentlemen associated with us in the operation. We were over at the Point about a week on the occasion referred to and had great sport among the ducks and wild geese. Their number is told by hundreds of thousands and there is little for the sportsman to do but load and fire. Corruption and venality continue to be the order of the day in high places but there is a public sentiment gradually forming, which before long will find expression. The State Treasurer is now under impeachment before the Senate for stealing some $200,000 of the public funds, and the controller is in the same limbo for aiding and abetting him. Notwithstanding public men have deservedly fallen into great disparagement, and notwithstanding public affairs have become almost hopelessly involved, still private men are steadily improving in habit and character and private affairs are being regulated more and yet more on the maxims of the East. That the State will in the end relieve itself from all disasters and measurably atone for its crimes or those of its people, I have no doubt. In our business we are still steadily succeeding. We have all that we can conveniently attend to. My own health and spirits are good and Jim is in good working order. About a month since I wrote to Mary very fully my opinion on the subject of her affairs and am satisfied of its correctness for the reason that it corresponds with yours. Give our love to mother, Mary and the children. Present my respects to Judge Roberts and lady and to Mr. Stoddard, who I understand is now living in Townshend.

From your affectionate son,

O. L. Shafter.

OSCAR LOVELL SHAFTER

O. L. Shafter to his Father.

Feb., 1857.

DEAR FATHER:

John* and wife and child arrived safely by the last steamer. They had a long and somewhat unpleasant passage, but reported themselves safe and sound. He came in the nick of time, as we had just got our arrangements completed for building a couple of houses on our ranch and stood in need of some reliable man to look after the numerous and somewhat troublesome details of construction. We had also on the day previous to his arrival contracted for 20,000 pickets for field fence and his services will be needed in putting them up. One of the houses referred to is intended for him. We shall place it near the center of the ranch, the point most favorable for general oversight. We have a large number of cows out on lease for a year. The year expires in November and then we shall select some twenty of the best cows and start a dairy under his leadership. We shall also give him a flock of sheep and an assortment of pigs and fowls to take care of. I think we shall be able to do very well by him and certainly shall not lack the disposition.

We have just won three great suits in the Supreme Court —Ridelle et al vs. Baker et als., $20,000; How & Co. vs. Baker and Paddock, $20,000; Bensley & Perkins vs. The Mt. Lake Water Co., a million and a half. I send my briefs in two of the cases. In the Beasley suit you may perhaps be interested in the questions discussed, for they are of a character kindred to those so often arising in road cases at home.

These three decisions in connection with another rendered in Hunt vs. The City and in which our client recovered $40,000 about a month since, are worth to us in coined gold $50,000. This is between you and me.

Your son,
O. L. SHAFTER.

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*John Shafter, a cousin.

Extract from letter, Oscar L. Shafter to his Father.

San Francisco, Cal., April 20, 1857.

The ranch claims our attention, more and more. A small steamer of about 20 tons burden is to commence running between the City and various points on the ranch. This arrangement will serve to enhance the values of the property. I send herewith a map of our ranches. I have made dots along the boundaries of each of them.

Letter, Oscar L. Shafter to his Father.

San Francisco, Cal., November, 1857.

Dear Father:

. . . . The rainy season has set in earlier than usual and all is activity and hope in the mountains. The crash in the East is not producing much sensation here. There has been no run on the banks and no apparent alarm. The amount of suffering in Eastern cities among the poor the coming winter must be very great. Here people may starve, but they cannot freeze.

Our business is good. We have all that we possibly can do and the work is of the heaviest character transacted in our courts. The courts, five in number, including those of the United States, are constantly in session, so there is no chance for relaxation. With the exception of two days in the country last spring, I have not had a moment's respite for the last year. I shave myself by candlelight in the morning, then take a sharp walk before breakfast, and am at the office by 8 o'clock, two hours in advance of time—go home at 5 to dinner, and am down again half the evenings and stay from 10 to 11 o'clock. . . .

I hope that Park will be able to see you before he returns. He assured me that he would go to Townshend before his trip to Europe, if possible. I am inclined to think, however, that he will not go to Europe at all. His business there was to effect a loan upon Fremont's Mariposa Ranch, but the recent monetary disturbances must diminish very materially the chances of success. He will return soon, should his European project be abandoned.

And now goodbye. We all love you and hope to see you again.

From your son,
O. L. SHAFTER.

Oscar L. Shafter to his Father.

SAN FRANCISCO, March 19, 1858.

DEAR FATHER:

. . . . You are seventy-three years old at last. Well, I am glad to hear as I did by the way of a letter from Lamb by the last mail, that you are as "cheery as ever." Old age even has its compensations. I am forty-seven years old myself, or shall be in the fall, and consider myself so near the boundary drawn between the prime of life and what is already known as its decline, that I can claim a tolerable insight concerning its states and experiences. And looking ahead I can see nothing to be dreaded, nothing even that is uninviting. It is a wise provision that all the parts and portions of our complex nature grow old together,—head, heart, frame and senses. To the old man his old wife looks as attractive I presume as when he led her, a blushing maiden, to the altar. Fortunately for him the eyes through which the octogenarian looks at his spouse are as old or older than she. Old age I think is not to be feared or repined at. It is as natural as youth, and death itself is as easy and as natural as life. We think of you with more of filial solicitude and regard than I care to detail here.

With your excellent constitution, never impaired by excesses, and your resolution not to "rust out but wear out," you will, as I most earnestly hope, see many more happy returns of your birthday.

I have had a long siege at Sacramento before the Supreme Court in arguing ten cases that involved among them a million and a half of money. We shall succeed in all of them but one, and that is the least important of the ten.

While I was at Sacramento Jim and Heydenfeldt were in Marin County trying the "Cattle Case" about which we have before written you. We beat them. The result makes about $10,000 difference with us. Heydenfeldt says that Jim talked about three hours to the jury and beat up the quarters of the adversary in a way that he never heard excelled.

We have another daughter. The dear child is not to blame that I know of for her gender. She is welcome. She is not *another* exactly either, but rather stands in the place of those that we have lost. Sarah is smart,—the babe is four weeks old. All send love to mother and Mary and her children and to you.

From your son,
O. L. SHAFTER.

Oscar L. Shafter to his Father.

SAN FRANCISCO, March 20, 1858.

DEAR FATHER:

I have now been in California three and one-half years, and in looking back it seems sometimes as though I had been here but a day, and again as though I had been here an age. I do not know how much longer I shall stay. There is not one man in ten in all California that has made up his mind definitely, in my judgment, to make it his permanent home; still I am equally well convinced that an immense majority of our population will never know any other. Men come here, leaving their families behind them, and with an honest intention to return after a short tarrying. They engage in business, their business gradually extends and becomes more and more complicated with the business of others. They invest in real estate, and they are not ready to leave. They send for their wives and children, they come, a house is rented or bought. If bought, then a flower garden is started, a new house erected, a few fruit trees planted by the wall, young Californians are in due time born to expectant sires, a circle of acquaintances, that has in the meantime been steadily extending, congratulates you upon the happy event. Long before this you have taken a pew in the Church to benefit your children and save yourself from the suspicion of having emigrated from some heathen clime; you have become interested in the welfare of that all-prevailing institution, the contribution box; you have a troublesome misgiving that if you were to leave the country the Genii of the box might pursue you as a fugitive from high social duty. In short you have gradually and insensibly become identified with the people among whom you have been living, and your interests have become interwoven with theirs. You have at last, in spite of yourself, learned to think, and at last to say, "Were it not for the graves of the dead, and the love I bear the few that survive, all idea of return would be abandoned forever." But you have yourself passed through all these mental experiences, I apprehend, and therefore understand them. . . . .

San Francisco is now, I believe, the best ordered city in the Union; its municipal affairs are administered with as much care, prudence and economy, as those of any New England town. The spirit of violence and disorder has not only been rebuked, but effectually quelled. A new class of men has come into notice, and attained to positions of influence and authority. The "chivalry," as we call the half-educated, inefficient, swaggering scions of the plantations, have in this city been unhorsed, and were it not for the patronage doled out to them from Washington they would have to take to the highway, to the poorhouse, or starve. It is here, in short, as it has been everywhere, where Northern and Southern men have met (outside of Congress) in the competitions and struggles of real life, the one nerved and armed by the whole course of early discipline, the other unfitted for the strife by the same cause.

Your son,

O. L. Shafter.

Oscar L. Shafter to his Father.

(Written from San Francisco, bearing no date, but, from its context, contemporaneous with the Frazer River excitement.)

SAN FRANCISCO, ——.

DEAR FATHER:

The State is now in a perfect commotion caused by the discovery of a new El Dorado at the North. What will be the upshot of the furore time will determine. Some 18,000 men have left the State during the last month and the cry is still "they go." It is settled to the satisfaction of the most incredulous that there is gold on Frazer River, but in what quantities remains to be determined. We expect a heavy immigration from the East and from Europe in consequence of this new allurement. I have written to Genl. Kellogg by the steamer of to-day. We are in full possession of Point Reyes Ranch. We have put sheep that cost $2000 onto it, have let portions of it and shall probably let the remainder of it before long. We are about investing $4000 more in stock to be added to the sheep. Jim leaves to-day to attend a term of court in an adjacent county. We remain in good health and are bound to see the old country again. Don't work more than is good for your health, I pray you. From mother's letter to Julia I fear that you are too ambitious. . . . .

From your son,
O. L. SHAFTER.

Oscar L. Shafter to his Father.

SAN FRANCISCO, Sept. 19, '58.

DEAR FATHER AND MOTHER:

Three weeks ago I left town on a business trip to our Point Reyes Ranch and have just returned. It may perhaps interest you if I were to give you an account of my trip. A steamer took me from the city to Point San Quentin where the State Prison is located. This point is on the Bay of San

Pablo about 15 miles from town toward Sacramento. I saw stranded on the beach a sail boat in which I had a narrow escape from sudden death the first year I was out here. The sight of the old hulk lying high and dry upon the sand set me cogitating, perhaps I should say moralizing upon the exceeding brittleness of the thread that holds us to life's possessions and friends. There are about 500 prisoners at the Point, engaged principally in brick making. The warden informs me that the number is steadily increasing. The convicts work in a valley outside of the prison walls and under the auspices of cannon loaded with grape and canister. From the Point to San Rafael, a distance of about three miles, we were carried in a covered wagon drawn by four California mustangs. We have two saddle horses with a full set of accoutrements at San Rafael. I found one of the two in the stable looking very much as though he had been drawn through a knot hole. The day before I arrived had been an election day, and this horse had been used incontinently by an enthusiastic acquaintance in hunting —*voters*. I sent accordingly for the other horse that was about three miles off at pasture, and started early the next morning on my further travel. Shall I give you a sketch of the horse and his rider? The horse was a milk-white Indian pony, small, a little lazy but plucky. All of his appointments were according to the style of the country,—Mexican saddle, bridle, lariat and saddle bags. I sported a white hat that couldn't be jammed, a white woolen coat bought at a slop-shop, buckskin pants and Mexican spurs on my heels that would weigh the better part of a pound each. After settling myself fairly in the saddle, the word was given and enforced by a slight touch of the spur and I was off.

The animal struck at once into the country gallop and on we went at that pace up the valleys and over the "divides" through a succession of gulches and canyons to the foot of Tomales Bay, a distance of 16 miles. I was now on our Berri Ranch of 8 square leagues. The rest of the day was spent in riding round on this ranch, visiting points upon it that I had not seen before. The next morning I hired the son of old Mexican ranchers to guide me over the mountains that separate the Berri from the Point Reyes Ranch, to the camp of a herdsman who with our license had established himself on a secluded part of the latter Ranch among the spurs that lead from the mountains referred to and at right angles with them, down to the shore of the ocean. There was a driving wind from the sea. The whole country round about was enveloped in a fog so dense that the eye could not penetrate it more than a dozen rods. For about two miles there was a clearly defined trail, but when we broke over the ridge it branched off into any number of cattle paths neither of which appeared more plausible than the others. The guide admitted on close questioning that he had never been to the camp but maintained that he was familiar with "the ground."

After we had beat about at a smart pace for about an hour we heard the bleating of sheep and following the sound we in a few moments were at the hut of the Nomad. It was in a deep black canyon, well protected from the ocean winds, but what had chiefly induced this Cossack of the Pacific to pitch his tent at that particular spot was a spring that afforded an ample supply of water for his family and herds. He was there with his wife and four daughters and all were employed in looking after his cattle and sheep.

That business is done chiefly on horseback. The cattle, left to themselves, are inclined to keep together, and the horsemen divide them into bands and keep them on separate ranges during the day. At night a signal is given by a yell or a blast on a horn and the cattle at once all start for the corral, where they are secure for the night from the attacks of bears and California lions. The above was the daily routine of my Tartar friend. After finishing my business we started back, and a wild scamper we made of it. The young Mexicano undertook to show off his horsemanship and give me a telling specimen of the mad riding of his people. Running horses uphill is not unknown at home, but riding down hill at an angle of something like 45 degrees on a sharp gallop and along the edge of precipices at the same rate is not customary there. After the great national triumphs of Buena Vista, Palo Alto, Chucutusco, etc., it touched my patriotism not to be overcome by one belonging to the conquered race on any issue he might be disposed to tender.

Regardless of peril and mindful only of the *honor of my country* I kept the nose of my mustang within about two feet of the hind quarters of the horse of my Mexican acquaintance until we drew rein at the place where we started out in the morning. The next day I arrived at the principal Ranch house on the Point Reyes, taking with me a man whom we had employed as a shepherd to look after our sheep. The next day I and the man took down a house and shed and for four days thereafter were employed in moving the material a distance of about five miles. Then we went to work and put up the buildings. They are to be occupied by the shepherd and stand on a part of the Ranch which we have reserved for sheep. The sheep have improved greatly since we took them over there. We have leased some 20,000 or 25,000 acres to five different men. They are all of them men of capital,—sober, industrious, enterprising, and have their families with them. We have been somewhat choice in the matter of character in selecting from the numerous applicants for land, and have given the tenants good and encouraging contracts, deeming that the best policy in the long run. The ranch is undoubtedly the best grazing ranch in the State, and is now very valuable and will become immensely so in time. I was over there about a fortnight longer than I expected to be when I left home. My linen came short, and I was compelled to make a shift by turning a dirty shirt inside out; had I been compelled to stay a week longer I might have been obliged to make another shift by turning that shirt the other end up.

I witnessed an interesting spectacle while I was there. Some men who have some 400 wild horses pasturing on the ranch, held their annual marking of colts. They employed 3 Indian vaqueros or horsemen. The first step was to drive the animals, say 100 at a time, into the corral. The next step was to lasso the colts. This the Indians did from the saddle, throwing the riata on the jump and with all the precision of a rifle bullet. While one threw his riata over the colt's head, another would catch him by the hind leg while at full speed, and by skilful twitching the colt would be speedily thrown, and then followed the branding. The exhibitions of the circus are nothing to the displays of horsemanship that are witnessed every day on the California ranches. But the time came for leaving, and I left greatly invigorated in mind and body by my two weeks' labor, and arrived at home two days ago, the dirtiest specimen of humanity that has been seen in San Francisco since the memorable year 1849. I found my family all well. The baby did not know me, but she recovered the lost idea, however, without much difficulty.

Emma says she wrote you by the last steamer, and I suppose told you all the current matters of family interest.

The news of the laying of the Atlantic cable was brought the other day by the steamer Sonora and was received with great rejoicings. It is doubtless the greatest news the globe has heard since it was announced that to "Castile and Aragon Columbus has given a new world."

But I must bring this long and somewhat rambling letter to a close. . . . .

Write often.

From your son,
O. L. Shafter.

San Francisco, Oct. 19, 1858.

Dear Father:

. . . . In our ranch suit we not only recovered the land but $4500 for the rents and profits. On the 31st of May last the sheriff put us in possession of the ranch and also levied on 400 head of cattle for the payment of the judgment belonging to G. P. Richards, one of the defendants. Last Saturday Jim and I went over to attend the sale. We were advised that Weller, the postmaster here and brother of the Governor, claimed to own the stock by a conveyance from Richards, made, we believe, with the design to defeat the collection of our judgment. We made up our minds to sell an undivided half of the cattle only and bought it accordingly at the rate of $15 for a half of each head. We had five Spaniards mounted on horseback to take possession of the animals as they were struck off to us, and when the sale ended we started them at once for Point Reyes, 30 miles distant. It was a wild scene indeed. Such riding you never see or hear of in the East. The feats of the circus are tame in comparison. The vaqueros were everywhere at once—ahead—on either flank—in the rear, and all through the drove at the same time, now chasing a fugitive cow or calf down a hill on the keen jump at an angle of 45 degrees, fetching the beast up with the lasso thrown over the head, and then spearing the captious buck up the hill into the drove,—yelling, laughing, flying,—on they go again with the bellowing drove.

Weller will sue us for damages, I suppose. If he should we shall try hard to beat him; if he beats us we shall have the cattle wherewith to pay him and then shall get our execution renewed against Richards. In about a month a suit will be tried between us and Richards in which we claim further damages for the use of the Ranch after the other suit was brought; this use runs through an interval of 13 months, and we expect to recover $13,000.

About two months since a man brought an action against us for the purpose of collecting a mortgage on our Ranch of $25,000 given by the person under whom we claim and before the conveyance to us. The case has been recently determined in our favor. It will go to the Supreme Court, but we have no fears as to the result. We have two or three other suits on our hands involving some odds and ends of controversy of no great amount anyway. Our success in the principal suit has stirred up the rapacity of about half of the San Francisco bar and they are hawking at the property like so many kites, but we don't fear them and so far have routed them at all points. The title is impregnable in our judgment.

We are all well. I often wish that you and mother were out here where we could minister to you in your age. Could I have my most earnest wish gratified it would be so. Property here has taken a start in consequence of the Atlantic Cable and the Overland mail. It comes and goes twice a week and the last time beat the steamer from N. Y. by 48 hours. The people here are half frantic with joy. We feel *nearer* to our old homes, and a large immigration across the plains the coming year is a matter now of absolute certainty.

Our business is good and we do not neglect it in consequence of the ranching operations, either. Our home experience in agricultural operations stands us greatly in stead. Jim and I have sole charge of the property.

Love to Mother and Mary and her children.

Your son,
O. L. Shafter.

Oscar L. Shafter to his Father.

San Francisco, Dec. 19, 1859.

Dear Father:

Your long letter of the 30th of Oct. ult. is received. Park arrived here by the steamer of the 5th inst. He brought two bulls, one a roan Durham 2 years old and full blood,—the other 9 months old, also pure Durham, color red and white. He brought also 4 pure French merino rams 7 months old. The animals all arrived in first rate condition. We kept them in the city a number of days on exhibition. A great many went to see them, and the bulls are admitted on all hands to be the best ever brought to this State. The bulls and sheep cost us here about $1400. We were offered for the youngest bull alone $1500, and we declined to take it. Jim has gone with the animals to the Ranch; he will be back in a day or two. About a month since we bought 400 ewes for the Ranch. The purchase was made in the vicinity of the city at a cost of $2000. We chartered a steamer to take them across the bay, and not having been out of the city for about six months, I concluded to go with them in person to the Ranch, about 40 miles distant by a route I had never before traveled.

At the end of the first day's drive and about dusk, we came across a little run of water which no amount of urging could induce the sheep to cross. Jo, the assistant I had with me, worked at them until dark, when we gave it up and pushed on for a night's lodging to a farmhouse about two miles further on and situated directly on the ocean. After a smart canter of 10 or 15 minutes we arrived at the Ranch, where we were very hospitably received. Fearing that the wild animals might interfere with the sheep, I hired a couple of men to go back with lanthorns and "set up with them over night." By the time they arrived on the ground, it came on to rain as it never rained before. It was dark as pitch and the wind blew a perfect hurricane. The lanthorns went out, and the men, after roaming round in the darkness until midnight, finding nothing of the sheep, returned to the house. In the morning we started out bright and early in pursuit. There were two gulches coming down from the Coast Range to the shore of the Ocean, which we had to cross to get on to the ground where the sheep were left, and down each of these gulches a miniature Mississippi was pouring like a mill race. Our horses however carried us across safely. We then scattered, and after beating about for a time found the flock about a mile from where we left them.

The next question was what to do with them. To cross the gulches on the regular trail was out of the question; to leave them where they were, awaiting the subsidence of the water—

Note—At this point the very interesting narrative breaks off, by reason of the loss of the remaining sheets of the letter; but it has been thought best to print the foregoing, leaving the reader to imagine the thrilling adventures that no doubt followed.

Oscar L. Shafter to his Father.

SAN FRANCISCO, March 19, 1860.

DEAR FATHER:

Newt's letter with your postscript thereto was received to-day. We received a Sheboygan paper a few days since containing a notice that Newt had sold out his interest in the foundry. He must have admirable business gifts to have sustained himself in the face of the widespread financial disasters wherewith the West has been visited. If he could command presently $8,000 or $10,000 he could use it to great advantage in this State. The rapid growth and general prosperity of this Coast has never been so assured as at the present hour. Since I have been here, now about five and one-half years, there have been no "expansions" and "contractions," no "inflations" and "collapsings." Those terms which I used to hear repeated so often in the East, are rarely used here and never as applicable to anything occurring around us. Business here rests in the main upon cash or bullion, or in so far as it may be done upon credit, the credit is made to repose upon tangible and available securities. All enterprises are checked and kept within safe and reasonable bounds by the constant action of these most powerful and salutary corrections. There has heretofore been great prodigality and recklessness in the conduct of public and private officers, and no lack of venality and corruption. By these means large state and municipal debts have been contracted. Within the last few years, however, a great change has taken place for the better, and the old debts are in course of liquidation. Had the State started out with a "Banking System," I believe that the great triumph that awaits it would have been postponed for a generation.

About a month since we imported a two year old Durham heifer from Bennington. She cost us here $500. We were offered $1000 for her on the day she was landed. Everybody says she is the finest specimen of the Durham breed ever brought to this Coast. Our sheep are just beginning to lamb. Off of 1000 ewes we shall have at least 2000 lambs,

PLATE VII. Shipwreck on Coast, near Sir Francis Drake's landing-place, Shafter Ranch

(From photograph by Miss Van Valkenburgh)

which at 12 months will sell for $10,000. This will give you some idea of the rate of increase in California sheep husbandry. Our law suit with Postmaster Weller about the cattle is ended. He gives up beat, not caring, as he says, to fight us any longer. After a series of tremendous fights we have beaten our adversaries at all points and what is more have humbled the strongest and the proudest of them. We have been for the last two years improving our Ranch by building houses and fences and have put considerable money into flocks and herds. Everything had to be bought here and sent over, even the hay used for horses and working oxen. The drain has been constant on our resources. Last year we paid taxes to the amount of $5000 in gold. This year they will be $3000 more, and they probably will remain at that point for years to come. But the tide already begins to turn. Cattle and sheep begin not only to multiply but to mature. We sold 14 cows the other days for $40 each and 117 sheep for $7 each. We have this year plowed and sowed and planted everything that can be obtained in that way for consumption on the Ranch. Fruit trees of great variety have been set out, and in 24 or 36 months we shall have apples maturing all the year round.* Ranch property, the title to which has been settled, is rising in value, and if anyone was to offer us now $400,000 for our real estate we should undoubtedly decline it. Aside from real estate I am to-day worth probably $60,000 in cash. They call me here "one of the fortunate ones." Of a large number of lawyers who came to this country about the time or since I came, I know of none who has met with any very marked success except Jim and myself. I have worked like a dog and have lived as I lived at home. I could have squandered every dollar I have made with all the ease in the world, had I allowed my old anchors to drag. I cannot tell for certain whether I shall go to Vt. this season or not, until the first of April shall have come and gone. I intend however on that day to retire from the firm and from the practice of law. I never liked it and have kept myself to it for twenty years by vigorous and unsparing self-lashings. I shall probably go to San Rafael, which lies about 16 miles from the City on the other side of the bay on the direct route to the Ranch, and there build me a house. I shall assume a general superintendence of the ranch, and shall also help close out the unfinished law business of the firm, which will take me, off and on, two or three years. If my relatives were all here I should desire no better country,—no better home. If you could be induced to come here I would spare no effort or sacrifice, my dear father, to accomplish it.

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*Evidently the writer, not fully informed as to horticultural limitations in California, expected apples to take on the habits of oranges!

We own nothing in Montgomery Block.

Miss Benson arrived here on the last steamer safe and sound. Mr. Boynton was in town to receive her, and the next day after her arrival they were married. Yesterday they started for the ranch.

John came to the City the other day at the tail of a drove of sheep for the butcher. We like him and his wife and boy and little girl very much. He went back with the Durham heifer before spoken of, and a very fine Durham cow that we bought in the City for $100.

Give our love to mother.

Your son,
O. L. Shafter.

(*Attached to previous letter.*)

April 4, 1860.

By inadvertence I failed to send this letter by the steamer of March 20th. On the first of this month our firm was dissolved by mutual consent. Jim and Heydenfeldt keep on together, and we all co-operate in closing out the business of the old firm. In some of the new business I shall continue to share, particularly in the business of the Bensley Water Co. I have had the personal charge of the Company from the date of its organization two years ago. Our old contract with the Company expired on the 1st day of April, on which day they paid us $20,000 in cash for our two years' service. A new contract will in all probability be made to which I and Heydenfeldt and Jim will be parties. I shall have all the law business that I shall care to attend to for some time to come, in closing out the old business.

O. L. S.

Letter from Oscar L. Shafter to Henry E. Highton, then a clerk in his law office.

San Francisco, Sept. 10, 1860.

Dear Highton:

I have but a few moments to devote to replying to your letters. In advising you to keep out of politics I meant no more than to suggest to you what I consider to be a salutary general rule for practicing lawyers, whether young or old, to observe. There may be special occasions where on the whole it might be well to deviate with a view to some special purpose. Should you make a political speech I have no doubt that it would be discreet as well as good, that is to say, promotive of the interests of the Republican party and of your own as a young and aspiring lawyer. Now you must yourself judge whether a political speech will or will not be likely to advance your professional success, which is the only kind of success, as I take it, which you affect at present.

With regard to your criticisms on Story, I have often heard them made before. To a certain extent they are just and to a certain extent they are not well founded. The law, it is to be remembered, is not one of the exact sciences, nor can it ever be made one of them. Could it be, it would be one of them now, and all of its definitions would be as precise and demonstrative as those of the mathematicians. As it stands, however, the definitions of the lawbooks are mere approximations, and where the approximation is the closest minds will differ as to what falls within and what falls without the definition. If everything was settled in the law with mathematical precision so that all questions would receive from all minds the same resolution, there would be little use for lawyers or even for courts. On questions of law there is no higher degree of certainty attainable than moral certainty, and it is for that reason that law writers indulge in discussion, more than they do in emphatic statement.

Please excuse me at this point, and believe me,

Your friend,

O. L. Shafter.

The following curious document is a letter to a young man in love, who appeals to Mr. Shafter for advice. This young gentleman, who afterwards became a very prominent member of the San Francisco bar, was so desperately enamored of a beautiful young girl, daughter of a foreign nobleman who then and afterwards was one of the foremost and wealthiest of the wholesale merchants of San Francisco, that he besought Mr. Shafter for advice as to how to conduct his wooing so that he might win the object of his affections. The situation really looked discouraging, for the suitor was almost literally penniless and briefless, and there were rivals. The apparent overwhelming odds against the youthful aspirant, combined with his tragical infatuation and the undoubted desirability of the maiden, at once enlisted the elder man's sympathetic nature, and he applied all his own wit and wisdom to planning a campaign that should capture the fair lady.

Letter to a young man in love.

San Francisco, Oct. 27, 1860.

Dear H.:

I have read the correspondence, herewith enclosed. Looking upon the matters about which we are consulting from the outside, I hesitate to adopt your conclusion that there is no reasonable prospect of your wishes ever being accomplished. The demeanor of the young lady in her intercourse with you, her vindication of you from unjust criticism when you were not present, etc., etc., seem to me no bad omen. Women, the oldest and most practised of them even, have their eccentricities; perhaps I should say rather their peculiarities. They are distinguished for looking one way and rowing another—particularly in matters relating to the heart.

The items of conduct on the part of Miss H., set forth in your letter to me, convince me that she does not regard you with indifference. Did she look upon you as a negative rather than a positive quantity, her manner could hardly have taken on the type, which, according to your statement it seems to have borne and to bear. She seems to have formed a high appreciation of your talents, and to have prophesied for you a brilliant future, and to have spoken thus of you in the warmth of friendly vindication. In this I apprehend there was no guile—no mere acting. Do not let the impetuosities of a first attachment blind your judgment to the force of these indications. I attach importance to them so far at least as to regard them as plenary proofs that you have engaged and interested her attention. *Now* I am satisfied that precipitancy of movement should be avoided. *Time* is with you probably a condition of success. And there is another more important still. Begin to realize the noble visions with which the eyes of the maiden have been visited for your advantage. Do not defeat her augury, but at once, under the impulse of a new motive, do her the grace and the justice too of aiding in its fulfillment. When you shall have worthily won the professional and social distinctions that she has foretold for you, she will be proud of them because she foretold them, and her present interest in you personally, will be very likely to be deepened. Win her then by earnest and manly endeavor in the broad and open field of life, and as one of the choicest of the varied spoils that attend upon deserved success. There is nothing like pluck.

Your friend,

O. L. Shafter.

In 1861 Mr. Shafter and his wife made the long-promised visit to their old home. The trip was a flying one, and a good portion of his time was spent in attending to various business and professional duties which carried him through States east of the Mississippi. The following are snatches of interest culled from letters penned on the way.

Extract from letter from O. L. Shafter, written during his Eastern trip.

At Sea, July 4, 1861.

Dear H.:

We shall be at Panama to-morrow at about 10 o'clock A. M., making a somewhat protracted run of fourteen days. We connect on the other side with the North Star. We have not encountered the skull and crossbones on this side, and in view of the well known speed of the Star, have but little to fear from those piratical emblems on the other. The voyage so far has been smooth and pleasant.

We have a number of very pleasant people on board. With Mrs. Fremont and family we are very much pleased. . . . .

O. L. Shafter.

Oscar L. Shafter to his daughter Emma.

At Sea, July 4, 1861.

My Dear Daughter Emma:

We are now within one day's sail of Panama, and have so far had a very pleasant voyage. . . . . We have encountered no privateers, and have scarcely seen a sail or a porpoise to break the monotony of the voyage.

There are only some 40 first class cabin passengers, but among them are a number of very pleasant people. With Mrs. Fremont and daughter we have become quite intimately acquainted. Mrs. F. is a very superior woman, one of the best talkers I ever met, and she is very well instructed and accomplished. The daughter has been educated entirely by the mother, yet there are but few young ladies who are possessed of so large a fund of genuine and useful knowledge as she. In the course of our very frequent chats all sorts of topics have been discussed, historical, scientific, literary and miscellaneous, and I have been surprised at the fulness and accuracy of her information. She is about your age. I trust that you will stubbornly bend your mind to the course of reading I marked out for you during my absence. I have been greatly pleased at the relations of love and trust that exist between the girl and her mother, and with the care she has for her two little brothers on board. She has charged herself so far with their education, and gives them from day to day regular instalments of learning.

We often think of you and the little girls left in your charge. Sarah is old enough to learn her letters. Teach her the catechism. Tell her little stories illustrating familiar truths. Make her mind you always, but do it by kindness and gentleness, for she has a gentle and pliant nature. . . . .

O. L. Shafter.

Oscar L. Shafter to a San Francisco friend.

New York, July 15, 1861.

Dear H.:

We arrived here on the 13th of July, after a very pleasant passage of 22 days and a fraction. This morning we hear of the capture of 8 prizes by the privateer Sumter near Cuba. We left Aspinwall on the day the seizures were made. No doubt is entertained here that the main game that she was hunting was the California steamer. We were fortunate in eluding her. . . . .

Your friend,
O. L. Shafter.

Oscar L. Shafter to Mrs. Shafter, who had gone on to Wilmington, Vt.

WASHINGTON, D. C., Sept. 23, 1861.

DEAR SARAH:

. . . . I have some business to transact here, relative to our City Water Works, which together with the inevitable sightseeing will detain me here until Thursday. I now expect to be at Wilmington on Saturday, but possibly may skip over to Monday. I met Fletcher, Mr. Haight, J. C. Palmer, and other Californians at St. Louis, and there is a large invoice of them here at Willard's. Among others I find Mr. Bensley, and I believe we were both rejoiced to take each other by the hand. There is a fierce riding to and fro in this metropolitan town, and the ears are filled with the din of rumbling wheels. Nobody is dreaming of any present harm at the hands of Beauregard, but preparations are made as though a speedy collision was a possible event. . . . .

O. L. SHAFTER.

A young attorney, afterwards prominent in law and politics in San Francisco, at this time was employed in Mr. Shafter's office. He was in a sense a protege of the elder man, and in turn was devoted to his interests and most jealous of his reputation. During Mr. Shafter's absence he undertook to keep him advised of the progress of business in the office. Writing under date of August 10, 1861, he recapitulates the action taken in a long list of cases, concluding with a matter of some public interest, inasmuch as it not only involved Mr. Shafter's relations to the municipality, but introduced, as a disturbing factor, the personality of another man of brilliant ability, a lawyer of note, whose distinguished career afterwards ended most spectacularly and pitifully. The full text of this correspondence is published, and particular attention should be paid to Mr. Shafter's reply, which is another unconscious exposition of his character. It is notable for its immediate assuming of every responsibility in the matter, his haste to exonerate a friend resting under unjust blame; his own readiness to bear the burden of error, if error had been made; his able defense, his clever and convincing analysis of the whole situation in all its bearings, made wholly from memory of events and without any data to which he could refer; his dignified, not to say condescending acknowledgment of the favor which his young informant had undertaken to do, and the delicacy with which he refrains from denouncing what evidently was an inexcusable affront, lest he hurt the feelings of the zealous conveyor of unsavory news.

San Francisco, August 10, 1861.

Mr. Oscar L. Shafter,
My Dear Sir:

* * * * * * * *

In the City Slip cases I regret to say that serious dissatisfaction is felt and freely expressed among respectable and influential citizens and I should not be surprised if, before long, it found its way into the newspapers. It has been found, upon investigation, that various stipulations have been entered into by Mr. Haight which are clearly wrong upon their face, and that the reports of the referee in several cases have been based upon these stipulations, thus increasing the judgments over what they should have been by several thousand dollars. It is claimed that counsel for the city should have detected these mistakes and also that, before the argument, they should have examined the Abstract of the City Slip property and the deeds tendered by the plaintiffs in the various actions, to see whether the City would be reinstated in the precise position she occupied before the sales were made. The general charge is that the cases have been neglected, that the same attention has not been paid to them which would have been paid to the cases of private persons paying the same fees. The other day at a meeting of The Tax Payers' Protective Union, members of the Judiciary Committee of the Board of Supervisors who were present by invitation, said that the arrangement with you was that the argument of the cases in the Supreme Court should be postponed, if possible, until Norton was on the bench, and they also stated that if they had had the slightest idea at the time of making the arrangement, that you would go home and confide the management of the cases to other hands, it would never have been made. They relied entirely, as they said, upon *your* high character for ability and integrity as a guarantee that the interests of the City would be protected.

I mention these things, Mr. Shafter, because I think you ought to know them and because I doubt whether any one else will state them to you, as frankly and unreservedly as myself. The fact is that the whole difficulty has arisen out of the almost universal distrust which the people feel of Judge Heydenfeldt. They say that he was a bitter Law and Order man in 1856, and that he is unquestionably a Secessionist now—that he is absolutely vindictive in his hostility to San Francisco, that he is much too intimate with those who are trying to injure the City, and that he exercises too great an influence over the Supreme Court, which is always wielded in strict subordination to his individual purposes. This is the substance of the charges against him, and while it is quite possible that you *know* them to be false, you cannot prevent the public from believing them nor from connecting yourself to a certain extent with them. For my own part I have kept my ears open but my tongue still. The Judge has always treated me as a gentleman and I have seen nothing in his conduct to justify the slightest suspicion—except his infidelity to the government and the flag. But as between you and him, you always have been and always must be first in my consideration, and it appears to me that it would be the most highly wrought Quixotism which would sacrifice you to the unpopularity of a man from whom in everything except perhaps the single article of honesty, you are as different as Lincoln is from Jeff Davis. If therefore a necessity should arise before your return, which I do not now anticipate, I shall look exclusively to your interests and let others take care of themselves.

I suppose you have already heard of the breaking up of the meeting which the Secession Party attempted to hold here some three weeks ago, and therefore I shall not attempt, at this late day, to describe it. Indeed the scene could not be fairly described except by some such writer as Dr. Russell or Charles Dickens. I was there in the midst of it, and so was your brother,* and, although he repudiates any connection with the disturbance, I can answer for it that the next morning there were few *hoarser* men in the City of San Francisco.

Two or three times we were on the brink of a terrible fight, in which many lives would have been lost, for almost every man who owned a pistol or a knife had it with him. The Secessionists in particular were all armed, for I saw their weapons.

The state of feeling which that meeting illustrated has been intensified by the news of our repulse at Bull's Run, and by other events of the war, and I should not be surprised if my prediction that there would be a serious conflict in this State, were verified much sooner than most people suppose. You know about how much weight to give to my opinions, so I shall not mislead you if I say that, notwithstanding our distance from the scene of active operations and the comparative apathy which prevails among our citizens, I expect to see civil war in California within sixty days; to speak moderately, after the coming election. There are as many Secessionists here, in proportion to the whole population, as there are in the State of Missouri, and they are of a worse class. They are well armed, as a general thing, fully organized, and under shrewd and accomplished leaders. The war is being brought home to these men as well as to us, by the loss of friends or relations in the ranks of the traitors and in our own army, and the state of mutual exasperation thus produced, must, as it appears to me, culminate in an outbreak. If it is to come, all I have to say is the sooner the better.

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*James McMillan Shafter.

In the hope that you are enjoying, as well as circumstances permit, a visit which must assuredly have its melancholy as well as its pleasant features, and with best respects to yourself and to Mrs. Shafter, I remain,

Faithfully yours,
H. E. H.

P. S.—Mr. Dam and everybody in the office wish to be kindly remembered to you.

Reply of Oscar L. Shafter to H. E. H.

WILMINGTON, VT., Sept. 29, 1861.

DEAR H.:

I left Wilmington about the first of August for the North and the Far West, and returned to the aforesaid point of departure last evening. I find two letters from you, the last of which is dated Aug. 18. I am perfectly astonished at the strictures which you say "respectable citizens" are making upon the manner in which the City Slip suits have been managed by our firm. The criticisms are all of them unjust to the last degree. In the first place if there has been any mismanagement no member of the firm is responsible for it except myself. Neither Judge Heydenfeldt nor my brother have had anything to do with the matter but to look on. Down to the time I left I acted in the conduct of the litigation entirely on my own judgment, concealing neither my opinions nor any step taken or to be taken, and governed always and only by my duty to the City.

In the second place, when we came into the cases the evidence was all in, the stipulations had all been made, and the case was set down for argument at 10 o'clock on the day after our retainer. I presented myself before the referee at the time, and urged a postponement to enable me to look the case through in all of its details, and further to enable me to get a Search of the title upon which Gillespie was then at work. This application was not entertained by the referee, and the argument was at once proceeded with.

If there have been mistakes in Mr. Haight's stipulations whereby too large amounts have been admitted, the mistakes are clerical ones and may at all times be corrected, and the question is one of those that may be made under the proceedings in error now pending. I had no chance to detect the error before the argument.

How could the Gillespie "Abstract" have been "examined by counsel before argument" before the Referee, when that Abstract was not made out until a month or six weeks *after* the argument was begun, completed and ended?

As to the deeds back to the City, they were all in the cases before we came into them, and in the face of a long series of objections overruled by the Referee, to which ruling exceptions had been duly taken by the City Atty. and Mr. Haight. Those exceptions are all preserved, and are all now involved in the pending motion for a new trial.

You say that it is urged that there was an understanding that the argument should be postponed if possible in the Supreme Court until Norton was on the bench. I have done nothing to defeat or impede that understanding directly or indirectly. I know that it was the wish of some members of the Judiciary Committee to delay the cases as much as possible, but have no recollection of any allusion being made to Norton. At the date of our retainer it was not known that Norton would be a candidate. I did nothing before leaving to give any speed to the litigation, except what was absolutely necessary in order to make our motion for a new trial available under the rules.

There was no understanding whatever that I should attend to the cases in person. Mr. Dodge will remember that I told him I was going home, and that my brother would look after the cases in my absence. He is as competent as I am to any professional responsibility, and enjoys the confidence of Mr. Dodge quite as largely, I doubt not. But I did attend to the cases in person before the Referee, and carefully and diligently matured all the papers for a new trial before I left, and furthermore left memoranda of argument behind me for the hearing in the 12th Dist. Court and written advice to be handed to the Board of Supervisors when it should be called for, and in addition to that had full and free conversation with Mr. Goold and my brother bearing upon the questions involved. But assuming that it was understood that I was to attend to the cases in the Supreme Court in person, I shall doubtless be back in season to do so. I hope that no *harm* has come to the City as yet from my long-deferred pilgrimage to the East. These criticisms are all baseless and unjust to the last degree. The cases have not been neglected. I apprehended all the legal possibilities of the cases as they came to us, and no favorable grounds have been lost or lessened. I have my own settled convictions with regard to these cases, derived from direct examination of the questions and all of the questions which the cases present. I have a perfectly clear conviction as to the course which will best subserve the good of the city. We have been employed to act upon our own judgment as a primary duty, always claiming and receiving however suggestions from all those who by reason of their official positions or as taxpayers are interested in the matter. But I have seen from the first that if we acted on our own judgment we should have to cross the judgment of others to some extent, and I cannot believe that the Judiciary Committee, with all the facts before them, will fail to acquit us of the neglect which has unadvisedly been laid to our charge.

Show this letter to James, but to no other person outside the office. He will talk with the Committee of the Board of Supervisors if he thinks it advisable.

I am pleased that you have written me so fully and freely on the matter. I have written you twice or three times since I saw you, and hope that the letters have been received. I have enjoyed myself greatly during my absence, but shall be glad when I am again among you.

Yours Truly,

O. L. SHAFTER.

OSCAR LOVELL SHAFTER

Oscar L. Shafter to his Father.

SAN FRANCISCO, April 29, 1862.

DEAR FATHER:

. . . .

Jim has acquitted himself finely in the Senate as President, member and man. He has attained to a position of which you may well be proud as his father, and of which I *am* proud as his brother. He is now presiding on the impeachment of Judge Hardy before the Senate.

Judge Heydenfeldt of our firm has been for some time past at Sacramento before the Supreme Court. Mr. Goold is at Washoe managing cases before the Territorial Court and will not return for a month. Jim has been for months absorbed in his legislative duties, and with the assistance of two very competent clerks, I have been and am now working the local machinery. The courts, however, all adjourn on the first of May, and early in the month I intend to take my nephew Willie and have a run to the ranch. . . .

Your son,

O. L. SHAFTER.

To his brother Hugh, for whom he named his own little son, Mr. Shafter was deeply attached, and letters that have been preserved show the bond of brotherly affection unbroken, through all the vicissitudes of life. Hugh's children, and their interests, were only less dear to him than his own, and we find him constantly inquiring and informing himself to their welfare and their progress, watching their several careers with solicitude, deploring their misfortunes, rejoicing in their achievements. One of these children was that William R. Shafter who afterwards became the Commander of the Department of California; a brave soldier, gallant comrade, devoted patriot and distinguished officer in the United States Army. It is to him, "Hugh's boy," that reference is made in the following letter.

Oscar L. Shafter to his sister Laurette.

San Francisco, Sept. 2, 1862.

Dear Sister:

More than a year has passed since I parted with you at Kalamazoo. I reproach myself for not having written you before this. My silence has not resulted from any failure of memory or falling off in brotherly affection, but from a great diversity of odds and ends that provoke delay in the discharge even of welcome duty. . . . Emma commenced housekeeping yesterday. I have not seen her yet in her own home, but I shall call upon her in state to-night. I have lived in a hired house ever since I have been here, but on the 1st of November next I shall move into my own, which I am now building in the very pleasant village of Oakland across the bay. There, if nothing evil betide, I shall live the rest of my days. . . .

I saw a short time since a statement in the papers that Hugh's boy had been wounded in the battle of Fair Oaks. Mary, in a recent letter, says that he is recovering from the wound and gives some of the particulars. I would write him if I only knew where to direct my letter. Tell Hugh to make known to the young Adjutant that his uncle felt an emotion of tribal pride, when he heard of his great peril in battle for his country, and of the bravery with which he met it. God bless him and the country for which he is fighting! . . .

Tell Hugh that all is right between him and me, though I have not seen any specimen of his handwriting for the last quarter of a century.

Your affectionate brother,
O. R. Shafter.

Oscar L. Shafter to his Father.

San Francisco, September 9, 1862.

Dear Father:

To-day is the 11th Anniversary of the admission of California into the Union; and all the flags are flying, and all the trained bands are out in honor of the occasion. A whole

Plate VIII. Glimpse of Oakland home of Emma Shafter-Howard on ground given her by her father in 1864. Inscription on Sun-dial (since removed and placed in Mountain View Cemetery):

"Haste, traveler, the sun is sinking low.
He will return, but never thou."

Brigade has just passed Montgomery Block. While we are thus holding high carnival on our advent into the Union, the telegraph is in the very act of telling us in its long traveled whisper across the Continent, that the defenders of the Union are being scattered, and that the fabric of our Nationality is just tottering to its fall. And still the grand hallucination that there is no God, that there is no Divine law, that right and wrong are but names, that there is no visitation for national blunders, and retributions for national crime, has hardly begun to be dispelled! There is nothing so powerful as an idea, when it has achieved a perfect conquest over men and masses. It takes generations to establish an idea, and work it into the very texture of the souls of a people; and when that result has once been accomplished, it is the work of yet longer ages to totally eradicate it. It survives the greatest national reverses induced by its own falsity. Lost battles, dishonored banners, perils threatening national life, furnish the very food on which its insane appetites are fed. The history of the Pharaohs is now being reproduced; we have been waiting for the seventh plague, and it has come. A reluctant, half-hearted assent, a cross between a groan and a scream, that the people may go, will before long be extorted by coward fear, to be retracted in a night, however, and then will come the last disaster, final, overwhelming as that which the Egyptian atheist and tyrant found in the Red Sea. The old Abolitionists were the prophets of their time; they saw the end from the beginning; all of their predictions are being fulfilled in the great demonstrations of the present hour. William Lloyd Garrison is shown by events to be the great thinker of his age, and old John Brown is now revealed as the only hero that has had pluck enough to invite the common enemy to battle. Still, notwithstanding all these auguries of evil, there are signs that the Achan that has debauched our civilization, that has sat so long at our Counsel boards, that has half heathenized our Christianity, and that for the last 18 months has apparently been the Lieut. Genl. commanding the Union armies, is a doomed devil, and that his end will not long tarry. . . .

Your son,

O. L. SHAFTER.

Letter written by O. L. Shafter to a friend, upon hearing of the death of his mother.

SAN FRANCISCO, Dec. 22, 1862.

DEAR H.:

My own mother died in the year 1828,—35 years ago, but I cannot, notwithstanding this long interval, think of her without emotion. I was present when she died, and have a vivid recollection of all the incidents connected with the event, and find now, as I have ever found, a melancholy pleasure in reviewing and dwelling upon them. Of that great solace to filial grief you will ever be deprived. Your mother's enduring wish once more to look upon her son, even before being reunited to her begotten among the blessed, is a touching manifestation of the strength of her maternal love. Every parent, particularly those who are beginning to be stricken in years, hopes that his children will be with him in his last conflict, and mingle in the train that shall follow him to his long repose. This hope, though born perhaps of human infirmity, half dispels the shadows that in contemplation gather over and around the bed of death. . . .

O. L. SHAFTER.

O. L. Shafter to his Father.

SAN FRANCISCO, February 1, 1863.

DEAR FATHER:

Today is one of the most pleasant of a long series of pleasant days. Peas are three inches high in my garden, lettuce and all sorts of garden stuffs are coming up, and the buds of the fruit trees are beginning to swell. The hills and the fields near and remote, are green with the new grass, and the weather is as warm and genial as June.

I hope that all of us, your children, will not, in the old age of our common parents, fail in any filial duty. I do not wish to embitter the rest of my own life by any such failure, nor to invite retribution at the hands of my own offspring when my own time shall come. I have arrived at a time of life when the obligations of filial duty are more fully understood and felt than at any other, and we can confer no greater favor to ourselves and to our descendants than by contributing by every means in our power to our parent's peace and comfort and general enjoyment in that portion of life that God in His mercy may be pleased to grant you. In my old age I expect to have my opinions, my dogmas, my notions, and my habits, and as I shall be too old to change them, I shall be greatly annoyed, I know, if I am not allowed to entertain them, free from complaint and criticism on the part of my young ones. I shall not then tax their love, or gratitude or forbearance long, and that of itself will go far to deprive them of all apology for impatience with their old Father.

I have just received an account of Hugh's family, and Laurette's William, John and Newton are in the field, and Gertrude's husband was mortally wounded in battle. Hugh says that he has contributed two sons to his country, and that his remaining boy awaits its summons; and that when the boys have all fallen, the "old man will go himself." . . .

Your son,

O. L. Shafter.

O. L. Shafter to his Father.

San Francisco, July 4, 1863.

Dear Father:

Today is the 4th of July, and great preparations have been made by the citizens for the celebration of the day. The French, German, Irish, Mexican, English and Chinese among us are in the habit of celebrating their National holidays, and this puts our own people upon their pluck. Were it not for the spirit of rivalry thus engendered, I fear that the "Glorious Fourth" would be little glorified here. The people here are not deficient, however, in attachment to the Union, but it is "attachment" as distinguished from devotion. They find their account in the Union, and therefore they adhere to it. Northern men, on intelligent business considerations; Southern men, who have as a general thing little interest in the business or property of the Country, because they hope that the Union can in some way be made subservient to their own particular madness, to-wit: "niggers."

You will see by the papers that I am the nominee of the Republican Party for the office of Judge of the Supreme Court. I have been told that there are many Democrats of both stripes that will vote for me, and that the full vote of the Republican Party will be cast for me I have no reason to doubt. I never engineered for the nomination, nor ever asked for it, and but one person in the State ever spoke to me upon the subject before the nomination was made. I have been applied to since to take the stump, but have peremptorily refused it. Since I have been here I have attended to nothing, striven for nothing, hoped for nothing, and desired nothing outside of my profession. Inside of it I have simply worked like a dog, performing more drudgery, I honestly believe, during that time, than any other two lawyers in the State. The people have, or fancy they have hitherto suffered greatly from incompetent, or dishonest, or partisan Judges, and there is a general disposition just now to select men for judicial positions with some reference to their qualifications. I have no particular assurance in my own mind that I shall be elected, but that a vote highly complimentary will be given me I have no doubt. I have never in my life before now seen the time when I desired or would accept any office that would withdraw me from, or interfere with the practice of my profession, but the reasons that have hitherto influenced me have been to a great degree met and overcome. I am somewhat weary of the labors and endless solicitudes of practice, and at the same time am fully persuaded that active employment is essential to peace of mind and general well being, and furthermore that it is a duty, so on the whole I should have no difficulty in reconciling myself to a seat on the Supreme Bench, and in a word just now rather affect it. . . .

Your son,
O. L. SHAFTER.

O. L. Shafter to his Father.

SAN FRANCISCO, October 21, 1863.

DEAR FATHER:

The Judicial Election is now in progress, and I suppose there is little doubt as to the result. The vote will be much smaller than that cast at the last political election. A Judicial election always occasions less excitement than a political, and here the opposition at the present is so much discouraged and disorganized by its September defeat that it will be unable to make much of a rally.

I have just finished reading the morning paper. The election returns are not all in, but enough have been received to show that all of the Union candidates have been elected by large majorities. Our firm will be immediately dissolved, and I shall busy myself from this time until the first of January next in closing up business.

This State is prospering beyond all parallel, and in the next ten years will take high rank in the matter of wealth and population. The great mass of the people are devotedly loyal, and their loyalty has its foundations, not more in the head than in the affections. There is another thing that augurs well for the cause of good government on this Coast: it is the general uprising of the people against the politicians. In fact the ascendency of "party" is here completely overthrown, and the very name of it has become odious. In this City the function of the mere politician is completely at an end, and there is little prospect that the rule of the vulgar, unscrupulous self-seeker will ever be restored. For the last six years municipal affairs have been managed with a single eye to the public good, not a dollar has been wasted or embezzled, taxation has steadily diminished, and individuals and society have been greatly improved. . . .

O. L. SHAFTER.

Oscar L. Shafter to his brother Hugh.

SAN FRANCISCO, Jan'y 5, 1864.

DEAR BROTHER:

I have just received a letter from Mary informing me that Father is very sick and that his life, though not at present despaired of, will not be long continued. Neither I nor James can visit him. You can. I hope and believe that you will do so. His affairs I apprehend are in a somewhat confused state, and you may be of great service to him and to us all, perhaps, in arranging them. I cherish no particular expectations for myself, but I wish to see an equitable division of the property among those to whom it would be a most desirable acquisition. If —— is indebted and is unable to pay, let him at least in justice to himself and others, *account* for the last dollar, and so far as I am concerned, I will for the love I bear him give him a release in full.*

I had a letter a few days ago from your Bill.† I have kept the run of him since he entered the army, and am proud of him. It is a fortunate thing for him that he will lead men into battle who have something more than a country to save—viz: a country to win.

To-morrow the first session of our new Supreme Court commences. On a raffle among the judges I drew the "long term" of ten years. . . .

Your brother,

O. L. SHAFTER.

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*As the sequel shows, Mr. Shafter's personal interest in the rightful disposition of his father's small estate, was to secure to two sisters who most needed it not only their full share, but the entire amount of his own, as well.

†General Shafter.

OSCAR LOVELL SHAFTER

Oscar L. Shafter to his sister Laurette, written at one of the stopping places on a long horseback journey which he took with his wife.

LAKE TAHOE, June 28, 1864.

MY DEAR SISTER:

I write from Lake Tahoe, formerly Lake Bigler. The lake is 118 miles east of Sacramento and on the east side of the Sierra Nevada Mountains. We, that is, myself and wife, arrived here one week ago to-day, and have led a very active life ever since. The lake is 30 miles long and of an average width of 15 miles. It is surrounded on all sides by mountains, reaching a height of about 2000 feet above the level of the water. They are robed with perpetual snow about one quarter of the way down from their summits. The lake is of great depth, and the water is as pure as crystal. The bottom of the lake is a white sand, and can be seen distinctly from a boat, where the depth of the water is 100 feet. The lake is teeming with trout and I believe furnishes the finest angling in the world. We have been fishing every day since our arrival, except Sunday, and have had the best of luck. The scenery is sublime. I have seen nothing on this Coast, and "it is a land of beauty and of grandeur, lady," that will compare with it. We shall remain here a week longer and then return to our home by the sea. . . .

I have received a letter from Colonel William R., (Shafter), in which he speaks of your Newton, saying amongst other things that he would like to get a position as Second Lieutenant of Cavalry on this Coast. I am acquainted with General Wright, who is in command on this side of the Rocky Mountains, but he has recently been relieved and General McDowell takes his place. As soon as McDowell arrives I will endeavor to make his acquaintance and secure the position named, for your son if possible. Whether a cavalry regiment is to be raised here or not I do not know, but if there is, it is possible, at least, that I may succeed in doing something for my nephew. . . .

Mary has written me, giving me a circumstantial account of father's last days, and expressing a gratitude common to us all, to Hugh for the final service performed by him at the deathbed of our venerable parent. . . . Jim and I have arranged for a monument to be erected to the memory of our Father and Mother and Aunt Fanny.

My wife, as I have already told you, is with me here. The trip will do her a great deal of good, and we shall both return with renovated health and spirits to our accustomed labors and duties.

The Hotel here is well filled with tourists and successful miners from Virginia City. Unlike most places of fashionable resort, the women don't bring their fashions with them, which adds very much to their own comfort and that of their husbands.

Give my love to all of our common blood, and continue to regard me always as

Your affectionate brother,

O. L. Shafter.

Extract from letter, Oscar L. Shafter to his sister Laurette.

San Francisco, April 17, 1865.

Dear Sister:

. . . On Saturday last we heard of the assassination of President Lincoln. The feeling is one of universal horror and grief. I hope that all danger of a settlement except upon a basis of absolute justice is now over. . . .

Jim is now at the ranch on business, but will return in a few days. He is fixing for the U. S. Senate, but I don't think he will be prepared *to put forth that amount and kind of effort* necessary to secure an election. . . .

Your brother,

O. L. Shafter.

OSCAR LOVELL SHAFTER

(Regarding the settlement of a father's estate.)

Oscar L. Shafter to his sister Laurette, Mrs. Wealthy Ransom.

SAN FRANCISCO, May 2, 1865.

DEAR SISTER:

I received yours of March 29 this morning. I see that a large proportion of those belonging to our tribe in Michigan are connected with the army,—once militant but now triumphant. I have a great solicitude with regard to John and Newton since I learned through Colonel Bill* of the dangerous service they were on. Those boys, all of them, have fought in battles that they can well fight over again when they are old.

Mr. H. will leave for the East to-morrow. He has a Power of Atty. from me and Jim to act for us in the matter of father's estate. I am in hopes that the whole thing can be closed up this summer by the voluntary action of those interested. Neither Jim nor I have received anything from father except what is named in his will. You and Jim and Hugh have been advanced about $1500 each, Mary about $1300, and N. very much more. The advances should be evened up and the balance of the estate (probably about $4000) should be divided pro rata. Should N. make good his indebtedness to the estate, the amount to be divided would be much greater. I have directed Mr. H. to pay to you one half of whatever may be coming to me, the other half to be given to Mary.†

Love to all.

Your brother,

O. L. SHAFTER.

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*Afterwards General Wm. R. Shafter.

†Mr. Shafter's own sister, Mary, widow of Dr. Edminster.

Extract from letter of O. L. Shafter to a San Franciscan traveling in New England

SAN FRANCISCO, June 11, 1865.

DEAR SIR:

James has been at the ranch for the last two weeks and will be back in a few days, Johnson was down on Wednesday last. The shearing is going on well, and will be completed in about a fortnight; there are now six men at work. Logan has sold out his lease to Crandall, a young man who used to work for us. James put Logan up to sell as he writes me, and adds that Logan is by nature and habit an old "itinerant vagrant." He has done very well however in the matter of butter-making, and has more than enough on hand to square all of his accounts with us. Johnson says that the new milk room works to a charm, in all the adjustments in the inside, and over and above all in the ventilation and evenness of temperature the room cannot be surpassed. He notices a very marked improvement both in the quality and quantity of the cream. Beef is very low, first quality 6 cents, pork is 11½cents, and butter has gone up to 45 cents. Creomony says that beef will be up about the time we want to sell. Joyce was in a few days since whining because the "coleman" had not paid him the balance of his oil money. I asked how they were getting along with the well, and says he, "Jooge Jooge, they have bin thrying to have me take a share in the well instead of me money, but Jooge I am thinking they'll niver fine ile enough to ile me rumatiz." . . .

O. L. SHAFTER.

From Diary.

With the new burden of judicial duties, the last entries in the diary are fugitive, fragmentary and far between.

January, 1864. I drew the long term of ten years. About 300 old cases have come to us by descent. I intend to do my duty before God, however I may fail to do it before man.

The first case on which I wrote an opinion was People vs. Bruzzo. The decision of the Soldiers' Vote case, Bourland vs. Hildreth, decided at this term, has been severely criticized, not to say denounced by the Press. I take it easy. I did not know how that kind and degree of animadversion would affect me. Judging, however, from the results of this ordeal, I conclude that I am not particularly thin-skinned. I am advised that the decision is acceptable to the profession.

April 8, 1864. We are now about half way through the business of our second term, and have made heavy inroads with the mass of old business that descended to us from the old Court House as an inheritance.

The Soldiers' Vote case has been reargued upon an order to that effect granted at the last term upon petition. It will be decided the coming vacation.

April 13, 1867. After an interval of two and one half years it occurs to me to make another entry. Should I wait much longer, the chasm would become too wide to be bridged. We are well up with our court business, but not so far ahead of it as not to find present employment to the full.

Have been with a select party to Cisco, the railroad terminus for the present. Cisco will soon cease to be a terminus, but it will always have claims to the distinction of being the *hyperborean* center of the Sierra Nevada. We had sleigh riding and snow-balling, privileges that we had come to suppose, most regretfully, we should never enjoy again. The snow regions, to which the railroad furnishes an easy approach, will be a point of resort, I predict, until the Sierra shall cease to be "Nevada."*

Nov. 19, 1867. To-day I have made my will. Is it the last? I wait, trusting in God.

The personal records set down by Judge Shafter's own hand here end abruptly. If there were letters written thereafter, they seem to have been purely personal in character and not to have been preserved. His mind and heart and soul were given to the high service upon which he entered with a consecrated purpose to dispense justice to his fellow citizens, irrespective of their rank, riches, or personal standing.

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*"Snowy."

When the majestic intellect gave way, and in a foreign land he sought change and healing, there came to him two touching letters from his associates on the bench, both of them aging men, themselves succumbing to the infirmities of advancing years; letters which fortunately have been preserved, reaching out the hand of good fellowship to their stricken comrade, offering a kindly stimulus to the waning powers, ignoring the character of his malady, striving to recall the failing memory by chit-chat of familiar scenes and the old life.

The first of these is from a man sorely afflicted, entitled by all the laws of physical suffering to a sour misanthropy and to be sunk in bitter contemplation of his own ails. Yet observe the gaiety with which he makes merry over them, the fun and harmless satire, the good cheer of the epistle:

To Oscar L. Shafter, in Florence, Italy, from J. B. Crockett, California Supreme Bench.

DEAR SIR:

It will, no doubt, surprise you to get a letter from me; but I was so much gratified to learn from Mr. H., a day or two since, that your health is improving, that I concluded to express my gratification, in a short epistle to you personally. But I am not sure you will be able to decipher my hieroglyphics, as my eyesight has become so bad that I can scarcely write at all, and am wholly unable to read ordinary print. About three years ago, one of my eyes began to fail, and in about a year I lost the sight of it entirely. About one year ago, the other began to fail in the same way, and is still gradually growing worse, so that now I get about with difficulty, and am unable to read print, though, as you perceive, I can still write, after a fashion. The trouble is cataract in both eyes, and the oculists assure me that the chances of relief, by a surgical operation, are largely in my favor. I am waiting, under their advice, until the proper time arrives to have the operation performed, which will probably be during the coming summer. In the meantime you can imagine the difficulty I experience in the performance of my official duties. My wife and daughter have to read everything to me, and generally do the writing, at my dictation. Justice is said to be blind, but I have found out that it is a very bad thing, for *a* Justice to be blind.

As you are aware, only one of your old associates (Rhodes) remains upon the bench. Curry is practicing law, and is very well, except that he is seriously threatened with my trouble—blindness. His eyes are becoming very bad, and he fears the disease is something worse than cataract. Sawyer is still writing *awfully* long opinions, as Judge of the Circuit Court; and Sanderson is getting rich as the attorney of the Central Pacific Railroad Co., with a salary of $1000 per month, and a good practice besides. He often appears in the Supreme Court, and is as refractory at the bar, as he was on the bench. You know how he used to "rip and snort around" in the consultation room, when he got his dander up, and you can imagine how "riproarious" he is. But after all, he is a genial, good fellow, and I like him. Rhodes plods along, after the old fashion—is as pleasant as ever, and at present is greatly exercised over the fact that he has lately become a grandfather. Mrs. Barstow has a baby, and we have dubbed Rhodes "grandpa." This is the last year of his term, and he is anxiously casting about to see how the chances look for re-election. He will doubtless be nominated by the Republicans, and will stand a good chance to be elected; and particularly if the other party nominates a weak man for his opponent, as it very likely will. There will be two Judges to be elected this fall, as the vacancy occasioned by Sanderson's resignation is also to be filled. The aspirants on the Democratic side are numerous; the most prominent of whom are McKee, Lake, Seldon, S. Wright, McConnell, Temple (at present filling Sanderson's place), and I have heard

Hoge's name mentioned. There will be a general scramble for the nominations, and it is altogether doubtful who will be the lucky "hombre." There is likely to be a lively time in the Democratic wigwam at the next State convention. Haight is a candidate for re-election, but is bitterly opposed by the politicians of his party and particularly by Wallace, who wishes to succeed Cole as U. S. Senator. Per contra, the masses, I think, are with Haight, but the politicians will probably out-general him and defeat his nomination; and in doing this, they will have the aid of all the railroad corporations, on account of Haight's opposition to railroad subsidies. But perhaps you feel very little interest in California politics, and I am wearying you with these details.

The crops promise well, and if the season continues favorable, will be very abundant. But there is an unprecedented stagnation in business. Times were never so dull in this State, and yet money is abundant and interest is lower than ever before. Ralston tells me that long loans are easily effected at 8 per cent per annum. But the railroad has broken down the merchants. It has brought us so near to N. Y. and Chicago, that our merchants no longer have a monopoly of the trade. Our markets are filled with Chicago hams, eggs, butter and poultry, and when a woman wants a silk dress or a fine bonnet, she sends to N. Y. for it. This is "rough" on the merchants; but is probably no disadvantage to the masses.

San Francisco is not growing; but Oakland is going ahead marvelously. You would scarcely recognize it with its beautifully paved streets, and its numerous new and elegant structures. The census reports its population at 11,000 and it is fast becoming one of the most beautiful little cities on the continent. I wish you were back in it, that we might crack a few more jokes on the ferryboat. I have some very good ones in store for you, when we meet. But I must stop, for fear you may say, "When will this blind man cease to prate?" But can't you oblige me with a letter in reply? I should be delighted to hear from you.

With kind regards to Mrs. Shafter and hoping soon to hear of your complete restoration to health, I remain

Yours truly,

J. B. Crockett.

At Home, March 1st, '71.

From the Hon. John Currey, Chief Justice of the Supreme Court of California, to Oscar L. Shafter, Florence, Italy.

San Francisco, April 17, 1871.

Dear Judge:

Mr. H. informs me that he is going East to-morrow, and that he expects to see you and Mrs. Shafter very soon, I concluded upon hearing this that I would make him the bearer of a letter to you from your affectionate uncle, that you might know from himself over his own sign manual that you have a place, and a conspicuous place, too, in his affectionate remembrances. I have often thought, since we became separated in judicial labors, that I would greatly prize the privilege of living by your side as a neighbor, and visiting you often in intellectual and spiritual converse; but as this is not our privilege I can only substitute in its stead my recollections of the past. I am gratified to hear that your malady does not appear to be increasing upon your strength, and I hope that before very long we shall see you among us as nearly recovered as one of your age can ever expect to be. It would be vain to hope that persons of our age should become entirely rejuvenated, after years of toil and wear. In my own case I discover the breaking down by degrees of my physical strength. I am hard of hearing, and my sight is becoming dim. One of my eyes is so diseased that I cannot see sufficiently with it to read. This disease is what the oculists call *retinitis,* which in plain English is inflammation of the retina. I have been thus afflicted about four months and I hardly expect ever to recover entirely from it. In consequence of this I have to forego reading very much, which is a deprivation that I very much feel. However, if I can have the sight of one eye, I shall be fortunate. I do very little in legal matters. I once in a while argue a case on brief, but henceforth expect to do very little of this.

I saw your letter to Judge Crockett, in which you mentioned my name kindly. To thus hear from you was refreshing. Judge Crockett, notwithstanding his infirmity of the eyes, is doing much labor as a judge, and holds his own with the best of his associates. May he live for many years to come. He is a man of excellent heart and sense.

I seldom see Rhodes, Ch. J.* He is doing well, and expects to be returned to the bench after his present term expires. I suppose he will be nominated at the meeting of the convention, and will be elected if the Republicans can accomplish it, but as the election of Judges is at a distant election, from that of State officers generally, I fear our people will not turn out in their full strength. We have hope, and a reasonable hope, of carrying the election for Governor. We have the Germans with us, it is now supposed. Selby and Newton Booth are talked of for Governor. Selby leads here, and Booth in the country. Phelps† would like to be the candidate, but has no chance from present appearances.

Our prospect for good crops is not flattering. We have had but a small quantity of rain this winter. Give my kind regards to Mrs. Shafter, and believe me, as ever,

Yours very truly,

JOHN CURREY.

Upon Judge Currey's retirement from practice, an eminent lawyer who had known him long and intimately, paid him the following tribute:

"The four years of Judge Currey's service on the bench of the Supreme Court commenced with the January term, 1864, and expired with the October, 1867. He was Chief Justice of the court during the years 1866 and 1867. With

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*Chief Justice.

†Timothy Guy Phelps.

Sawyer, Sanderson, Rhodes and Shafter, all of whom were eminent judges of distinguished reputations, these four years formed a memorable era in the judicial history of the State, during which more by far than in any other four years of its history were produced decisions of importance delivered in opinions of incalculable value on account of the legal learning embodied in them, and the admirable and classic English in which they were expressed. . . . . In severe simplicity of diction, directness of logical order, clearness of expression, aptitude of illustration, and force of argument, there are those who think Judge Currey not rivalled by any who came before, served with, or who succeeded him on the bench."

Oscar T. Shuck, a well-known legal writer and author of "Bench and Bar," remarks upon Judge Currey's public career:

"It was stormy and full of disappointments; but in the retrospect of these years, he is able to say that he has never bowed himself down before the oppressor, nor subordinated man's right to liberty and the pursuit of happiness to brute force of superior might. As a judge, he was honest and just. With his professional brethren he lived on terms of amity and friendship. Towards young men of his profession he was kind and considerate, both at the bar and on the bench, which many now in full practice gratefully remember."

VI

MISCELLANEOUS

SELECTIONS made by Judge Shafter, representing his own philosophy and creed, from the notebook of Dr. Channing, a writer whom he held in the highest regard.

"To *live*—to have spiritual force—is the great thing."

"To look forward, we must gain an eminence."

"God thinks of all beings; so should we. . . . . A lovely spirit does spread."

"Every soul has its own warfare, but still we may help one another."

"There should be faith in the possibility of impressing others with our own highest views."

"He does not understand self-sacrifice who does not desire to conceal it."

"Joy comes from having *great interests,* not from idleness; from great affections, not from selfishness; from self-sacrifice, for this knits souls; from great hopes."

"The question is, What can be done by an all-consuming desire to do good, by the action of intense, absorbing love to our fellow creatures? Can they stand before it?"

"To live in the world, and know the worst of it, and yet hope and strive for its improvement,—taking courage from God,—how much nobler than to dream of the millenium in our closets!"

"We wake up and find ourselves plunged in this mysterious stream, always flowing, never beginning, never ending, and bearing us onward to unknown worlds."

"May we think of death, not to sadden life, but to learn the full glory of life. . . . . We are not wholly of the earth."

"Shall we weep for those who are done with weeping?"

In view of the warm affection existing between the two brothers Shafter, both prominent in the early history of San Francisco and the State of California, partners in law closely associated for the better part of their lifetime, it seems fitting here to give space to a brief biographical sketch of the younger brother, who survived Judge Shafter many years, passing away generally beloved and regretted.

James McMillan Shafter, brother of Oscar L. Shafter, was born in Vermont, May 27, 1816. Graduating from Wesleyan University at Middletown, Connecticut, he was admitted to the bar of his native State, and entered upon the practice of the law. In his early twenties he was elected to the lower branch of the Vermont Legislature, and in 1842, at the age of 26, became Secretary of State, an office which he filled with distinction for seven years. In 1849 he went to Sheboygan, Wisconsin, where he remained six years, becoming a prominent figure in the politics of the State, being elected to the Wisconsin Assembly in 1851 and receiving the nomination to Congress from his district in 1852, when, although defeated, he received 1000 more votes than his party, the Whigs, cast for General Scott, their Presidential candidate.

In December, 1855, he came to California, and through an arrangement already made by his brother, at once entered into a law partnership with E. B. Mastick. Landing from the steamer in San Francisco at 6 o'clock in the morning, at 10 o'clock of the same day he was at work reforming pleadings in an important case!

The duration of his partnership with Mr. Mastick was short, owing to the fact that his brother's office was overrun with work and needed him, offering him a tempting salary for his services, so that he entered upon his association with the firm of C. H. S. Williams, Shafter and Park, within a few months after his arrival. In 1857, on the withdrawal of General Williams, a new partnership was formed between the two Shafters, T. W. Park and Solomon Heydenfeldt, under the firm title of Shafters, Park and Heydenfeldt. Upon Judge Heydenfeldt's retirement, the firm became Shafter, Park and Shafter.

In 1862-63 Mr. Shafter was State Senator from San Francisco, became President of the Senate pro tem., and also presided over the now historical High Court of Impeachment which removed Judge James H. Hardy from the bench of the Sixteenth Judicial District. He was an influential member of the Constitutional Convention of the State in 1878, and afterwards was enrolled among the strongest opponents of the instrument framed by that body and ratified by the people.

Mr. Shafter's long career at the bar was marked by many brilliant victories, involving the promulgation of several new legal doctrines which overturned old precedents and were reaffirmed by the highest courts. In his professional career as well as his personal life, James McMillan Shafter always upheld the same high standards of honor which characterized his brother.

A man of simple tastes and plain in speech and dress, he held the same views regarding the dignity and beauty of labor, and entered with the greatest enthusiasm into the acquisition and operation of the great Shafter ranches in Marin County, in which he and his brother made mutual investment. On the other hand he, also, was a great lover of music, and at one time was president of the Handel and Haydn Society of San Francisco.

The following notable tribute was paid to him in the public print by the Rev. J. H. C. Bonte, an Episcopal clergyman, for a considerable period secretary of the Board of Regents of the State University. It was published as a pen portrait of the eminent bar leader, while making his celebrated argument in the contest of Judge Fawcett's seat in the Constitutional Convention to which allusion has been made, and which involved the large question as to whether membership in the convention was an office, in the true sense of the word. After quoting several of Shafter's epigrammatic utterances, Mr. Bonte says:

"I am not giving his argument, but a few flashes. The action of Shafter's mind exacts attention. He packs his speech with solid shot, and he is rapid because he feels that there is no other way of delivering his enormous cargo. He is massive in person and in thought, and he walks through his adversaries' arguments as an elephant through a canebrake. As I imagined, he drives his points after the manner of a piledriver. The course of his argument is like a glacier—it fills every nook, expands and contracts without breaking; it moves on, crushing and pulverizing everything in its way. An iron will, invulnerable courage, reckless independence, terrible calmness, intimidating reposefulness, preside over his reasoning. But he is also gracious, and comes down to common apprehension. He is versatile and affluent in thought. He utters sententious argument in brief parenthesis. He is a philosopher as well as a jurist. He is a humorist, but his humor is ponderous and elephantine—the gambols of the lamb in the person of the elephant. Therefore, his humor crushes. The sportive leaps of the elephant are as dangerous to man as his wrath. He is modest, but also aggressive; his satire and irony lacerate and enter joints. He is strong in his personal magnetism. Fortunately, he is genial and winsome, or men could not live with him. His simplicity covers him as with a garment of beauty. But the greatest element of his genius is his impressibility; the age he lives in and its past touch him on all sides. The ruling traits of his character are to be found in his practical wisdom—the art of combining and keeping things in their places—a sense of the mutual dependence of parts—the element of man that corresponds to the law of gravitation in nature. Shafter is not an orator in the old sense of the term—he is more—he is a seer. He is not only a jurist—he is more—he is a statesman."

Brief Biography of General Wm. R. Shafter.

William Rufus Shafter, to whom frequent reference has been made in this volume, was a nephew of Oscar L. Shafter, being the son of his brother Hugh, and was born October 16, 1835, at Galesburg, Michigan. He was commissioned 1st Lieutenant of the 7th Michigan Infantry, August 22, 1861, and mustered out August 22, 1862; was appointed Major of the 19th Michigan Infantry September 5, 1862, promoted to Lieutenant-Colonel June 5, 1863, and honorably mustered out April 18, 1864. On April 19, 1864, he was appointed Colonel of the 17th U. S. Colored Infantry, became Brigadier General by brevet March 15, 1865, was made Lieutenant-Colonel of the 41st U. S. Infantry July 28, 1866, then Colonel of the 1st U. S. Infantry, March 4, 1879. On March 3, 1897, he became a Brigadier General in the regular army, and on May 4, 1898, he received the appointment of Major General of Volunteers, being finally retired as Brigadier General of the U. S. Regular Army on October 16, 1899, and advanced to the grade of Major General on the retired list February 18, 1901. He received a Medal of Honor for gallant service during the Civil War, and is distinguished in the history of the country as the leader of the expeditionary forces to Cuba which effected the surrender of Santiago on July 17, 1898. He adopted this State as his home, and after a brief term of service as Commander of the Department of California, died November 12, 1906, at his ranch near Bakersfield, California, finding his last resting-place at the Presidio of San Francisco.

William R. Taft was related to the Shafters on the Lovell side, and amusing anecdotes are recounted in the family of episodes in which "the two Bills," William R. Shafter and William Howard Taft, figured, in childhood and youth, with no visions of the future honors they were to achieve.

Oscar L. Shafter's views regarding woman's equality.

In days past, when our foremothers shared the labors of men without sense of recognition of the economic value of their work, men like my father, whose sense of justice at least claimed equality of privilege as their due, hoped and labored to that end. It is not strange that he penned these words for his own children. He saw the disability of women in their relation to their own children, as well as to the world, for want of this due consideration, and anticipated the struggle for their supremacy as "mothers of men" as well as equality, and he spoke for them, as now they are speaking for themselves. Let the women of to-day look well to it that they can "earn their wage" as partners in human endeavor, even as those who did so, having no voice, and demand their hire! E. S. H.

Oscar Lovell Shafter's tribute to his wife, taken from his diary.

In the struggle for a competence she has given most efficient coöperation . . . . utterly free from the least trace of parsimony or avarice. Orderly in all her arrangements, and remarkably exact and efficient in carrying them out, she has been to me an invaluable ally. [Before all,—he would have said,—she has borne eleven children, and suffered untold agonies of loss as well as physical and mental strain. —E. S. H.]

"She has great simplicity and directness of character. I cannot recall an instance in which she ever manifested aught else than the most perfect truthfulness of heart. She is a capital judge of character, of quick and sharp perceptions, and of a most excellent understanding. I never knew a woman of more perfect moral tone, in everything that pertains to the affections or the emotions. I know of no one that is her superior. She is a most earnest, frank, warm-hearted, and true-hearted woman. She has, further, great decision of character, and is endowed with wonderful fortitude, phenomenally tested. She is generous, having no love of money for its own sake. Of an ardent, social nature, she is prone to the practice of hospitality, active in her sympathies, always ready to aid in the relief of human suffering. She is free from arrogance and pride, and makes acquaintances and friends among the poor with as much pleasure apparently as among the affluent, and I think with more. She has great reverence. It is not acquired, but is native to her heart. As a mother, her children will ever remember her. To them she has ever been entirely devoted. No specification is needed here of particulars.

"I say to my children as the sober judgment of their father, that there never was a mother better than theirs, and never one who had a stronger claim upon the respect and love of her offspring.

"And I urge it upon my children, with all the solemnity of a last injunction, that they never come short in redeeming the great obligations that they owe her. To me she has been a most faithful, affectionate and devoted wife, sharing my hopes and fears, my joys and sorrows, ever by my side, making her own happiness consist in mine. I love her now with a firmer and holier love than in the hour of our bridal."

(If an illustration were needed to contrast the narrow limitations of a "woman's sphere," as measured by achievement, with the greater opportunities of our day and generation, is it not this? The longing for equality of appreciation, honor and influence as measured by the "coin of the life," shows a sense of the need of a broadened definition of that "sphere" in conformity with human progress; and it is a world language—regardless of sex—a human alphabet.

My earliest recollections are of my father's hospitality to a pioneer for "woman's rights," after having withstood the insults of a village mob while speaking.

It was his wish that his daughters should be so trained to care for their own material interests, that through action, vital relations and activities, they could grow into effective citizenship. It was this prophetic outlook that gave incentive to the acquisition of landed properties as the basis of a constructive family line.—E. S. H.)

The good, old-fashioned habit of keeping a daily journal or diary, now almost wholly abandoned by a people rushing madly through life with little inclination to pause or reflect by the way, was an important function in Mr. Shafter's eyes. To many the custom was a matter of idle routine, the book a convenient reference for dates and other useful memoranda. To him it held a deeper meaning. It was educative. It taught habits of order, of reflection, of memory, of observation. Above all, it meant the riveting of home ties, and to him that word "home" was the dearest in the language.

At an early age he bought and placed in the hands of his first-born daughter, a daintily bound book whose fresh, blank pages were to be devoted to such purposes. And to impress upon her the full significance of the task upon which she was entering, he wrote therein what he called a "dedication" of the little volume to the high uses for which he designed it. The book was filled in due course of time, and another took its place, in which another dedication was written by the father's hand. These books did not begin and end with a single year, but were continuous journals of observation and experience, terminating at any time of year when their pages were filled, whereupon the new book would be opened and resume the family chronicles. And at intervals, through the years, when the old book was finished and the new one begun, a child-like request for a new dedication from the beloved father, with which he always complied, would be made by the daughter, even after she had grown to womanhood.

In the belief that others will appreciate the gentle wit and wisdom of these fatherly counsels, which exerted so deep an influence upon the growing girl, keeping pace, in their verbiage and substance, with her age, a few are quoted here. If they shall stimulate any members of the present generation to a revival of this important old-time custom, and make them, in their turn, the historians of the circle in which they move, in their own day and generation, the space they occupy will have been well employed.

Diary Dedications, written by Oscar L. Shafter for his daughter Emma.

DEC. 12, 1853.

I have just finished the first volume of my diary and this is my first entry in the second volume. I have not much reason to be proud of the appearance which the first volume presents. Some of the leaves are turned down at the corners, many of the pages are badly blotted and the handwriting on the last page is not much if any better than on the first. Yet I value it highly notwithstanding these defects, for I find in it a permanent record of my daily life from the time of its commencement to the present—an interesting memorial of incidents with which my father and mother, my brother and sisters and other friends near and dear to me are connected. But for this memorial, many of these incidents would already have been forgotten by me, and as time passed on, the residue would most probably have faded one by one from memory, till the whole of the time embraced in this memorial would have become almost if not quite a blank. I think I can write much better now than I did before I attended Mr. Allen's writing school and I intend to do my best to keep this book clean and nice, and by observing strictly the rules taught me by Mr. Allen, I hope to make steady and creditable improvement in my handwriting. I must also acquire a habit of *observing* so that each day I may have something to write about. I must learn to keep my eyes open that I may see, my ears that I may hear—and I must accustom myself to *reflect* upon what I see and hear so that I can have thoughts, meditations and opinions to register in my diary, as well as mere *sights* and *sounds.*

When my childhood shall be ended, when the years of my youth shall have been numbered, and all the landmarks, too, that lie between that and old age, shall have been passed forever—when my now pleasant home shall be the dwelling place of strangers, and its present inmates slumbering with the dead, or if living, separated from each other "by mount and stream and sea," how valuable to me will this record of myself and them then be! How mournfully pleasant it will be to review it! The loved and lost will live again in its pages and my own bright morning be again revealed. Oh, that I may so live in all my relations to them—to the world—and to my own soul, that the review will give me no pang for harsh and sinful thoughts indulged—for unkind words uttered—for ungracious and hostile acts performed—for holy duties disregarded, contemned, neglected.

APRIL 19, 1857.

It is now little more than five years since I began to keep a diary. I was then about nine years old—I am now in my fifteenth year. Time has passed very rapidly but my observations and experiences are to a very great extent recorded in my diaries. My father's assurances, so frequently given, that the habit of keeping a diary would be beneficial to me, have been measurably realized. It has cultivated a habit of observation, taught me to reflect and aided me greatly in giving utterance to my thoughts on paper in a proper manner. It is a great pleasure to me to review what I have written, and my father and mother value the books I have written more highly than those of the most distinguished authors in the library—*as they say.*

The brief biography of my dear little brother—and the still briefer annals of two of my sisters—the incidents of daily life—matters of neighborhood concern—the departure of my father from our pleasant home to push his, or rather *our* fortunes, on this almost foreign shore—the painful experiences of the following year—the welcome summons to join him when that, to us, memorable year was ended—the incidents of our wayfaring and the history of our California life so far, are all registered in my books. As life passes on and as the events of the past fade farther and farther into the distance, the interest and value of my diaries to my parents and to me will steadily increase—and when old age comes, should I ever attain it, I shall find in them sad yet cherished memorials of those who watched over my infancy, and of whose tenderest solicitudes I have ever been the object.

In commencing this my fourth volume, I have made up my mind to write it with more care and thought than I have bestowed on any of the others. I shall expect more of myself and more will be expected of me by the small community in which my books will be read, than when I began the work of authorship.

Diary Dedication.

AUGUST 27, 1859.

Seventeen years have now elapsed, my dear daughter, since your birth, and in one year more according to the laws under which you live, your minority will have ended. That year will soon transpire, and through its last days, as a gateway, you will pass to the unknown future that lies beyond. The character of that future has already to some extent been determined by the course of your past life, and your habits, occupations and general experiences for the coming year will have upon it an influence still more intimate and controlling. The events of to-morrow are affected by the events of to-day—the year that is now with us projects its lights or its shadows into that which is to follow, and the life that now is has to do with that which is to come. Our years are but successive chapters of one volume and that in which the history of our infancy and youth is written generally determines the tenor of all the others. Bear this important truth in mind, my daughter, during this, to you, *New Year,* upon which you have now entered, and regulate both your outward and your inward life by the deep wisdom which it teaches. I would have you gain all that learning by

Plate IX. Vista down Oakland street, before Oscar Lovell Shafter property. Emma Shafter-Howard's home in foreground, with wistaria in bloom

which the intellect is at once instructed and strengthened, and all those accomplishments by which grace and beauty are imparted to the highest intellectual attainments—but over and beyond all that the most cherished wish of your father's heart is that those who may travel with you after your father's companionship is ended may say of you, "She is amiable"—"She is kind"—"She is good."

Your father,
O. L. SHAFTER.

Copy of letter sent by Emma Shafter-Howard to her father, O. L. Shafter.

SAN FRANCISCO, April 13, 1863.

MY DEAR FATHER:

While looking over my diaries the other day, and thinking how much pleasure and satisfaction I found in their perusal, the thought occurred to me that they may be objects of perhaps greater interest to my little boy when he grows up to manhood. And then the idea came to my mind of beginning a journal now, reviewing the changes and incidents which have taken place in my family during the past two years, and continuing it with the story of his own little life as interwoven with ours, until he shall be old enough to keep it himself. On reflection I have concluded to follow out the idea, and have gone so far as to send you the accompanying book, with the request that you dedicate it to that purpose for me. I could not tell you if I was to try, how much I prize the "dedications" of my books penned by your own hand, and filled with so many wise and affectionate counsels. They are in fact the features which make my diaries invaluable, and it is my desire that this book shall be dedicated in like manner.

Your affectionate daughter,
EMMA.

Copy of last Diary "Dedication" written by O. L. Shafter, for E. S. H.

APRIL, 1863.

The request contained in your note is preferred by you in the double capacity of mother and daughter, and I respond to it as the grandfather of your little boy and as your father. My own son is long since dead, yet to my heart he almost lives again, in the person of my little grandson. You have not begun too early to reflect upon your duties to your child, nor been over hasty in concerting plans for fulfilling them. The particular plan referred to in your note, is in my judgment eminently judicious. You propose to resume the record of your own life, first commenced, if I recollect rightly, when you were about eight years old, and continue it until your boy shall be old enough to act as the historian of his father's household. When that time shall have arrived, he will be thereafter steadily acting upon your views, become a good penman at a comparatively early age, he will learn to observe, to reflect, to analyze, to deduce. All the faculties of his mind will develop and strengthen themselves by these exercises, observation will become more keen, analysis more exact, reflection more and more steady and exhaustive, and the growing reason advancing with a firmer and yet firmer tread, will insensibly fit itself for the solution of the profoundest problems. But your plan, if carried out by you and your son, will have another fruition, if possible still more valuable to him. It will strengthen attachment to father and mother, whose beings will become all the more sensibly interblended with his own. The memory of friends and home will be made the more tender and vivid, the development of the affections at large will be encouraged by associations over which time will have no power, except to hallow them, and in the ever growing record of his life, will be gathered and garnered ever growing encouragements to the practice of virtue. He will write for all the posterity of his own line, and he will be mindful of that fact moment by moment as he lives. His diaries will descend as heirlooms to the generations that shall follow him, and he will resolve at the threshold of responsibility that in the truthful autobiography of the ancestor shall be found proofs alone of honor the most pure, and of integrity the most lofty and sincere. May God's blessing rest upon the mother and upon the child is the prayer of

Your affectionate father,
O. L. SHAFTER.

(Copied from a school-boy composition, written by Oscar L. Shafter somewhere about 1825, on the subject, "A Few Lines Addressed to a Connecticut Clock Pedlar." This refers to one of the characters of that period in New England, whose calling and existence have alike passed into tradition.)

"The clock is indeed an eloquent instructor. The pendulum, by its incessant occupation, gives an instructive example of industry. The periodical down running recalls to mind the approaching dissolution of man. The inattention paid to its constant ticking, shows the folly of loquacity; and the weights, by their silent but efficient action, demonstrate the superiority of practice over precept and teach lessons of modesty and unobtrusive usefulness."

No greater tribute can be paid to a lawyer than for fellow attorneys of eminence to seek his advice. The following copy of a letter written to Mr. Stephen J. Field demonstrates that one subsequently a Justice of the Supreme Court of the United States profited by Judge Shafter's counsel before the latter ascended the Supreme Bench of California, and while he himself was popularly spoken of as a candidate for the higher office.

SAN FRANCISCO, April 2, 1861.

HON. S. J. FIELD,
DEAR SIR:

My time has been so far occupied since you were at our office that I have had little leisure to reflect upon, and still less to examine the question, to which you have honored me by calling my attention.

There are two grounds upon which your opinion that a junior grantee is precluded from impeaching the survey of an elder grantee, may be justified.

1. Under the Mexican system when a grant was made, it was always understood, that the grant was to be located by the government. It mattered not whether the grant was a float or a grant with boundaries, the process was not perfected until the limits had been created in the one case, and pointed out in the other. This last step in the established formulary, assisted in the delivery of "judicial possession," involving as it did a definite ascertainment of the lands to be delivered. The officer charged with the duty of performing this final act, might err, and from accident or design, but in such case the grantor was remediless. The power of the government through its functionaries, over the question of location, pertinent to the *jus disponendi* and in the exercise of that right, however capricious or eccentric it might be, still theoretically there could be no wrong. None to the grantee, for he took with the full knowledge of the legal rights and powers of the government and in strict subordination to them—and none to junior grantees for a like reason affecting them. Therefore when the reserved power of the government was exercised in favor of an older grantor and his position in space was defined, it was not permitted to the junior grantee to question the correctness of the allotment. The reason is to be found in the *system*. It was so because the system made it so.

Livery of seizin was a *feature* of the feudal law, and "judicial possession" is very likely a relic or fragment of feudality. If two charters of foeffment were made by the same party, one prior to the other in point of time, the foeffer could not be compelled to perfect the title under either by a corporal tradition of the lands for which it called. Livery could not be claimed as a matter of legal right, and therefore if lands called for by the junior charter were delivered to one holding a senior charter, it was but an inevitable outcome of the system, and at the best presented a case merely of damage without wrong.

2. The United States holds its California lands by mere proprietary right. In strictness these lands belong to the people of the whole country. The people, however, cannot act upon questions of title to which they are parties except through the government which represents them.

When the government acts the people act through it. When the government decides the people decide and all are supposed not only to acquiesce but to join in the decision. If the decision involves the location of a prior grant, and if the location be prejudicial to a junior grantee, he cannot impugn it, for he is supposed to have aided in making it concurrently with others—all acting under the forms of a public law of their own creation.

If the decision relate to the location of a junior grant, it is true that a prior grantee may question the location notwithstanding he must be regarded as a party to the location which he questions. But he can do so for the reason simply, that the act of 1851 allows him to do it. He is a "third person" and he is the only one by whom that character can be claimed.

Smith Case.

The law is unconstitutional on the grounds following:

1. It limits the general operation of the general law of venue. If the act stands the general law as modified by it reads as follows: "Applicable to everybody *except Smith.*" On a matter of general concern, legislation of that character must be regarded as partial rather than "general."

2. The act puts the judge upon the performance of ministerial duty—not *outside* of his office, to be sure, as in the case of Burgoyne vs. The Supervisors, but *inside* of his office, which is worse, and in a case, too, pending before him, which is worse still.

Houston vs. Williams, B Cal. 24.

3. The act *requires* the *judge* to make a certain order in a case pending. That order when made would take on all

the forms of judicial determination and record. In the very act of making it, judicial power is wielded—blindly it may be instead of thoughtfully, but still it is wielded. Dictated to instead of being invoked, still if the order should be made, judicial power would be exercised, though exercised *in vinculis.* Here, at this point, the essential vice of the act is revealed. The legislature cannot *mandate* the courts. On *appeal* the question must be, was Campbell right in his refusal to obey a simple legislative command addressed to him as judge? On mandamus the question might be complexionally different, but in substance it would be the same. For the purposes of argument it may be conceded that the legislature might pass a *law* requiring Smith to be taken by the sheriff to Placer for trial. The question here is as to the right of the legislature to make the *judicial power* the blind instrument of its will in accomplishing that result. This doubt does not gather upon the result to be achieved, but upon the *means* which the legislature has undertaken to use in order to secure it in this particular instance. Is the judicial power under the adjustments of the Constitution, subject in any case to legislative impressment? The statute in question is *felo de se.* In its own contemplations, the act to be done is to be done judicially, and still the judge, in the part assigned him, moves but as he is moved upon. The act makes his official coöperation a necessity to its own administration, still his coöperation is but that kind of concert which you find between the automaton and the hand that conjures it.

"All of which is most respectfully submitted."

O. L. Shafter.

Speech made by Justice O. L. Shafter, on the occasion of the second annual festival of the Associated Alumni of the Pacific Coast, held in the "spacious new hall of the College School,"* at Oakland, California, June 6, 1865. Judge Edward Tompkins presided over the feast, and among the prominent men of the day who made eloquent and witty responses to various toasts were Major General McDowell, Professor C. T. Jackson, celebrated in the medical profession as the discoverer of ether; Judge Wyche of Washington Territory, and the Hon. John W. Dwinelle.

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*Germ and beginning of the great University of California.

The sentiment proposed was "The Judiciary of California,—fearless and independent—they honor the State that has honored them." In response Judge Shafter said:

"I thank the president, by whom, or at least through whom, this sentiment, so complimentary to the judicial department of the government, has been introduced; and I thank the gentlemen present for the indulgent manner in which the sentiment has been received by them. If the commendation is deserved, we are obliged,—and if not deserved, I suppose that we should consider ourselves obliged all the more emphatically. If there were any indications that the sentiment commended itself to the ladies—and I am not entirely certain whether there were or not—I confess myself at a loss to account for it. Our court has not, as yet, made any demonstration in their favor or otherwise, on the subject of divorce or breach of promise of marriage. But I may be permitted to say that when any case, falling under either of those heads, shall come in due course of business before us, we shall look to it that *he* gets his deserts. (Applause.) I can only regret that my seniors on the bench of which I am a member are not present to respond to the sentiment in language more fitting than may occur to my own thought. But they are detained by the exigencies of public business. I reflect, however, that if they were present, they would probably insist that I, as junior member, should, according to judicial etiquette, go ahead and open the argument. In speaking of myself as junior member, I do not mean to take an unhandsome advantage of the absence of my associates by palming myself off as being personally younger than even the oldest of them, for, sad to say, the only youth that remains to me, either to regret or rejoice in, is official altogether.

"But speaking of youth, I am reminded that we were all younger once than we are now. And it is to that fact doubtless that a large proportion of what may be called emotional interest connected with this occasion is to be attributed. The observances of the day, this hall, the festivities now on foot within it, stir us as the heart of the Highland chieftain was stirred as he listened to a song of the Children of the Mist sung by Annot Lisle in the Castle of Darlinvarach. The trees of the tribal valleys in which he had once dwelt so pleasantly with his people, rustled their green leaves in the song, and the streams were there with the sound of all their waters. We are affected by a kindred enchantment. Harvard—dating almost from Plymouth Rock; Yale—that opened its gates not long after the Charter Oak became historical; Dartmouth—the educator of the defender of its own charity, and the defender of yet another foundation deeper, vaster, and more fraught with human charity than that; Williams—seated in the American Arcadia—and yet other beautiful mothers of deserving sons, though absent to the bodily sense, are present to the soul, and reveal themselves in its mirrors as distinctly as the loved and lost appeared to view in the magic glass of Agrippa. Their ideal presence is welcome—and thrice welcome their virtual presence in the persons of so many who wear their honors.

"But there is another Alma Mater—here—on the Pacific Coast. Cisalpine by position, she has in her veins the noblest of Transalpine blood. Her heart is moved by a great purpose, and the light of assured hope is in her eye at last. She is already surrounded by a little band of graduates and disciples. She is but a little older than they. We to-day are her guests. She gives us audience here in her own hall. God bless her! May the number of her children be greatly magnified. Gentlemen, let us aid in making more pleasant her already pleasant places, and in building high the walls of her future habitation, till in the language of one to whom I have already alluded, 'It shall meet the sun in its coming, and parting day linger and play on its summit.'

"I am induced to hazard a word upon the subject of the general relations of this institution. I cannot speak from the book, but still on information which I consider reliable. I believe them to be exactly what I conceive they ought to be. This college is pledged—but the pledge is not to the past. A pledge of that character, if given, would fail, as the lawyers say, for want of parties. This institution is not the thrall of the mediæval. It is not the bonded patron of the encyclical. While it does not disregard the wisdom of past ages, all its pledges are to the present, and to the future, constantly revealing itself in the present. It is pledged to the freedom of the reason, and to the absolute freedom of human conscience. It will seek neither to overawe nor impede either by mere dogmas, but stands pledged to the highest development of both, by the best methods; and will use the wisdom of the past, sacred and profane, together with all the wisdom of the present, in working out a redemption of the pledge. This institution is pledged to Christianity. But the pledge, as I understand it, is not polemical or dogmatic. It is to Christianity in that most beautiful and exhaustive exhibition of it contained in the Sermon on the Mount. But, again—and it is a matter of no little moment, in view of the lessons of the last four years—this college is pledged to the country—to the nation as such. The pledge has not been uttered formally, perhaps, but it has been fully manifested by conduct springing from patriotic impulses. The pledge is to the flag, and to all the great ideas of which it is the sign. During the last four weary, but now triumphant years, the national banner has been kept here, hard up to the truck of the flagstaff—in storm and sunshine—in victory, and in humiliation and disaster. We may all well take it for granted that there will never be a chair within the walls of this institution for instruction in the science, or rather in the art and mystery of high treason. It will not be a corrupter of youth. It will not poison the streams of public virtue, by poisoning the fountains. The youth that will be committed, from generation to generation, to its care and culture, will be trained to love their country. They will be taught the maxims and molded in the methods of patriotism. And in the hereafter, should the country be assailed by foreign or domestic foes, in its integrity, in any of its rights, or in its honor, her sons will have no ambition to gratify except to be numbered among the statesmen who shall guide, the heroes who shall defend, and the martyrs whose glorious privilege it shall be to die for it. (Cheers.) And should their ideals lead them to any higher aspirations, it will be to add theirs to the roll of perhaps half a hundred names that have lived since the time of Adam, 'the few of the immortal names that were not born to die.'

> "'The names of heroes, sages, prophets,
> . . . . Side by side
> Who darkened nations when they died.'"

To that list our country has already had the honor of contributing two names—that of Washington, and of another whose world-wide obsequies have not yet been completed. Whose shall be the name of the third? There will be a third, and a fourth, and a fifth, and so on. But they will come only with the ages. With the great social upheavals corresponding to the geological epochs, marking the incoming of new and better civilizations. They will appear whenever there is a Red Sea to be crossed—whenever a people, having outgrown its Egypt, shall march off in search of its Canaan. But though we cannot tell whose will be the name of the third to be added by this country to the roll of the immortals, yet we can tell what manner of man he must be. That is deducible from the address to which we have listened to-day, and is taught by all human observation and experience. Adopting the analysis of Dr. Channing, he will be great in intellect, great in action, and greater still in goodness. The death of a ruler or leader, great in intellect and action only, may well be a darkness to his own people, but to cast the nations in eclipse, greatness in goodness must be superadded.

OSCAR LOVELL SHAFTER

HUMAN PROGRESS

By Hon. Oscar Lovell Shafter

Read before the Associated Alumni of the Pacific Slope, at the College Hall of the College of California, on Wednesday, June 7, 1866.

The present age is often spoken of as an age of inquiry; but it is not that exactly which distinguishes it. The human mind is ever active. Torpor was not the trouble with it in the middle ages. There were as many questions asked and answered then as now. Curiosity was never more eager, nor the din of controversy louder, nor were conclusions ever more multiplied. Though relatively dark, those ages were not dead. Let the questions which then engaged the attention, not only of the leaders of opinion, but of the masses, be formally stated, and the number of accredited solutions also, and it will appear by count, that in the matter of knockings and apparent openings thereunto, the present age is beaten at its own game. There were geologists before Werner, astronomers before Galileo or Copernicus, geographers before Cellarius, theologians before Martin Luther, writers upon the great problems of society and government before Grotius and Puffendorf, mental philosophers before Locke, and dogmatists upon the subject of investigation before Bacon determined its laws. Instructed or uninstructed, in the darkness as in the light, the human mind has ever asserted its divinity through the great office of thought.

Though inquiry is more active now than it was in the middle ages, still the objects to which it now addresses itself are widely different, and the methods of investigation are diverse altogether. The new direction given to inquiry may be regarded as the objective point of the change, but its cause is to be found mainly in the method by which investigation has in modern times been conducted, and in the recognition of a new tribunal, clothed with the power and affected with all the responsibilities of judgment in the last resort.

The mediæval method was the dogmatic. It was short and to the purpose. The facts of consciousness, the testimony of the senses, the voices of the affections, reason, experiment, observation, experience, general principles, the truth of which had been established by normal methods in earlier times, all went for naught. If even known as sources from which information could be derived, they were never consulted. They were all alike under ban. The accredited dogmas were regarded as axioms, the truth of which no one was permitted to dispute under pains temporal and eternal. Though there was controversy, as has been remarked already, it was confined to the true meaning of the dogmatic statements. When a new point arose which no existing statement exactly fitted, a new one was deduced from doctrines previously settled. And so the process went on—one assumption breeding another—to infinity.

This method of getting at truth was not confined to any one department of inquiry, but was extended over the whole field of investigation. The result, as might have been foreseen, was a series of false judgments, followed by fatalities proportioned to the magnitude of the question which the false judgments involved. There was no science, no philosophy—moral, intellectual, natural, or social—none but the art of endless wrangling according to Aristotle; no form of temporal authority or influence, either popular or dynastic, free from the debasements of ecclesiastical supremacy. The idea of law or established order in the procession of events, was unknown or ruled down. Everything was treated as exceptional, nothing as universal, save theology—and the vicegerency through which it aimed at the dominion of the world.

And how did this estate use the power which it had acquired on no better authority than that of dogmatic interpretation? Having driven the reason from its appointed watch, it peopled the universe with chimeras. It secured for ages the degradation of labor by holding that it was a curse from the beginning and not a merciful judgment in disguise. By mistaken interpretation it set the form and history of the earth awry, and disordered outright the mechanism of the heavens.

But these conclusions were connected with others different in character and of larger range. From a dogmatized exigesis of the witch of Endor, came sorcery. Though an entire illusion, it was attended with all and perhaps more than all the consequences that would have followed it had it been a reality. The result of false method in the first instance, the false judgment was defended and kept on foot by like method for more than a thousand years of human history—filling it with every form and degree of crime, misery and shame. The lawgiver walked in its shadow, and judgment wallowed in its mire and domestic and social life withered in its spell.

The ghastly delusion survived the reformation. For more than two centuries thereafter the history of Protestant Europe was but a continuation of the mediæval chapter. The delusion crossed the Atlantic in the Mayflower—not as freight in the hold but as a passenger in the cabin, and found a delusion like itself and of like dogmatic mould, dwelling in the wigwam of the savage. For the better part of a century thereafter colonial life, in one of its aspects, proceeded on the barbaric level.

But there was another dogmatized delusion which prevailed in the middle ages of like character with that just mentioned though of larger proportions. I allude to satanic agency. It was one of the leading misjudgments of the times, and of all the most controlling and disastrous. It was the most comprehensive. It cast the largest shadow. Practically there was nothing back of it that could become the subject of thought or speculation—nothing but vacuity.

The misjudgment was so generic that in a purely syllogistic age all manner of deductions were sure to be drawn from it, whether for ends avowedly religious or humane, or for the lust of gain, or power, or for the gratification of malignity in pursuit of a single victim or a hecatomb.

This delusion related to no less a question than the present acting sovereignty of the universe. By a decree as full, as precise, and as inflexible as any ever entered in a court of record, that sovereignty was more than divided. There was no appeal. Nor was there indeed any disposition to appeal. The decree accorded with the intellectual condition of the times.

The dogma was received, not speculatively, but as a real presence, and the heads and hearts and hands of men were at once set to work to find out and to give to it the utmost farthing of its argumentative dues. The harvest of consequences soon began to be gathered, and the field ever stirred by dogmatic culture continued to yield more and yet more bountiful returns for forty generations.

To the agency in question was assigned the current administration of the physical and moral universe. Eruption, earthquakes, adverse winds, storms, plagues, pestilence, famine, disease at large, times and seasons, everything in short, that was considered abnormal, was attributed to it. Insanity was by diabolical possession. Every distemper of the passions was by present diabolical incitement; and so was private judgment and the individual conscience its fast ally, whenever they rose in revolt, or sought to test their common chain by going behind the dogmatic heats in which it was welded.

Over against this hostile jurisdiction, however, and constituting its counterpoise, was set another—the vicegerency. The first was supernatural, in presence and malignity, and for all present purposes was considered as moving and reigning in its own right. The vicegerency was filled with beings of mortal mould, but they were endowed with supernatural wisdom and power by a dogmatized commission, and represented the Deity in all the interests of the world which he had created. Both the poise and the counterpoise came of the same method of determining what is and what is not, and were alike necessary to each other. The wrath of man has been directed in the main at the vicegerency, and there the rule has been to lay on and spare not. But the ineradicable instinct of our nature after balance is such that human scorn might as well have been directed against the assumption which made that vicegerency a necessity in order that the world might be saved from present anarchy, or from destruction rather before anarchy could begin.

From the two installations named came first and last, everything by which mediæval history is most distinguished. The story may be made to a fill a volume or it may be told in a word. The human understanding and conscience were laid aside. The silver cords that connected the human and divine, were loosed; the golden bowls broken; and the wheels at the cistern stood still. During the night which followed there was no industrial progress, for the harvesters were put on a false issue. There was neither discovery nor invention—the spirit of both died out in the face of the holding that both came of intercourse with the fiend. The lever of Archimedes was broken and the golden fleece of Jason forgotten. Had the geometrician or the ancient mariner been within reach, the one would have been burned with his lever—certainly if compound—and the other, wrapped in his commercial spoil. As for the Argo she might have been sequestered to the "pious uses." The great lines of philosophic thought started by the old immortals broke down, for they were of the pit to which they led. Literature was in its grave. Law awaited its resurrection in the charnel of Amalfi. The new commandment given by the Redeemer unto men was wounded about with patristic glosses and buried alive with an ecclesiastical canon for its headstone. All conception of the beautiful as distinguished from the sublime and terrible, was lost. Dante, of the thirteenth century, was the first poet of our era whose name has become deservedly historical; and his great genius could find expression only in the wailings of the Inferno. In music there was no mean between the exaltations of the Laudamus and the despair of the Miserere. Architecture was patterned after the groves of the Druidical worship, and painting drew its inspiration from the catacombs. No human authority was recognized save the divine right of kings—no supremacy but the Hierarchy. The physician was a poisoner if the patient died, a necromancer if he lived—and the plague walked in darkness and wasted at noonday. Cities and whole provinces were periodically depopulated. The prescribed cure by means of relics, pilgrimages to holy wells and shrines, though always used, always failed. The only recognized remedy for insanity was exorcism, the only one found was death. The religious ideal was asceticism—with its wonderful self-sacrifice, and its long breathed pardlike malignity; its sense of sin which no penance could allay, strangely coupled with an insensibility to right and wrong which no appeal could arouse; and to this may be added its infatuation in saving men by a method which crushed and destroyed them. Temporal justice was by ordeal, spiritual justice was by interdict, *auto da fe,* assassination as in the case of Henry of Navarre, or massacre like that of St. Bartholomew.

The gospel was propagated abroad and lost ground was recovered at home, by crusade—the retreats of the Albigenses, and the holiest of the holy mountains, were both carried by assault. Though the Hierarchy succeeded to some extent in restraining the lawlessness of the times by dint of its dogmatic ascendancy, still every victory gained over the passions of others seemed but to intensify those peculiarly its own.

But time moved apace. Fortunately there was no vicegerency in fact; nor was there, in fact, any such thing as satanic agency in the sense in which the phrase was used. There was God on the one hand and man on the other, and between them unchangeable law—connecting them as with golden wires. The winds were in the hollow of His hand, and the waves obeyed Him alone. Seed-time and harvest were His. The pestilence came of a violation of what He had appointed. Labor was not a degradation, but a condition on which the waste places were to be made smooth and the wilderness to bloom and blossom like the rose. A condition, also, of all intellectual and moral excellence, including in its highest range that striving even by which alone the straight gate can be entered. Neither invention nor discovery were what they were taken to be. They were divine gifts, and not preternatural crimes. Nor was private judgment, or its synonym the human reason, what it had the credit of being. Nor was the human conscience. Their respective jurisdictions had been misapprehended. Their relations to each other, and the normal methods of each had been mistaken—and so as to their tenacity of life and their undying self-assertion. It had been assumed that the human head was made only to nod assents and shake negatives—guiding the conscience correctly when the dictated conclusion happened to be right and assuredly misguiding it when it happened to be wrong.

The great trouble was that the reason, the conscience, the appetites, the passions, the æsthetic nature of man and the sentiments, were all cast in dogmatic jumble—and from out it came the vicegerency and the fiend—twin Pythons from the mud. The classic dragon fell by the arrow of Apollo, the day after the God was born, and if modern civilization had finished its exorcism of the others earlier in its own great day, it would by so much the more have been a blessing and a glory to mankind. But it was not so to be. The fiend with whom St. Anthony struggled in the desert was the false presence with which the Scotch covenanter fought the fight of a yielding faith in the Highland cavern after dealing the blow of grace at the Archbishop of St. Andrews; and the one whose tempting whispers, to use the language of another, "Haunted the life of the puritan when away from the council-board, or off the field of battle."

But the middle ages, bad as they were, were not altogether waste. The reason shut off on all the great lines of investigation, busied itself on shorter ones which authority failed to cover. Fatal security! As though the short ones did not lead into the long ones! On the lower levels of thought, however, the understanding was left to go in and out according to its own laws. From like narrow pastures the conscience was not altogether excluded, and thus to a limited extent it was enabled to keep its true relations to the reason and the life. Nor did the soul of man fail entirely of its appointed inspiration. It held on to its ideals and brooded over them though in abnormal mood.

The sentiments remained; the pity whose fate it is to bleed, the charity which cannot weary, the human sympathy that cannot die, and the aspirations which at once link and direct Man to the Creator. The Sermon on the Mount was not forgotten, though by dogmatic adjustments it became greatly cramped and perverted. Nor did the spirit of Him by whom that sermon was preached and lived die out entirely. The age in short had in it many of the ante-pasts of the present, as the present has of the highest good that is yet to come. Happy it is for the world that it is so difficult to destroy it! However hard it may be to elevate man it is harder still to degrade him. Take him at the middle distance—the halfway house between the extremes of lowest heathenism and the highest Christian civilization, or halfway or anywhere near halfway between the unquestioning slave and the instructed and balanced freeman, and the smallest fraction of the power necessary to return him to the earth; would raise him to the skies; in the one case the attempt would set the universe ajar, while in the other it would run with all the harmonies of God.

But passing from mediæval times to our own. They are out of joint. Be it so. Still there never have been times so sound in the bone, or whose articulations were so perfect as ours. We are conscious of movement, and from the results which have thus far been reached, we have come not only to believe, but to know that the movement is a forward one.

I do not propose to speak at length concerning the character of this movement. Its results have engaged the attention of economists, moralists, statesmen and philosophers; and they have been studied and pored over by all, not as detached or disconnected events, but as a series, with a view to determine their causes and law. The movement has already made large contributions to general history and the end is not yet. The last of its volumes has neither been written nor acted. Differing to a degree from the ancient civilizations, and from the mediæval, men have thought it worth their while, and have even found it necessary to distinguish it by a name.

The movement is vast in its proportions. There is no human interest which it does not affect, and none of which it is not slowly but surely taking control. Its tendencies so far as they have been developed, give assurance not merely of that nearer future which when it shall have transpired will have only doubled the distance back to Eden, but of that future at the end of whose unmeasured reach lies all of earthly weal that man was created to enjoy.

This movement has so far been followed by every form of material good. Human life has been prolonged and multiplied by unwonted bread. The standard of physical comfort was never so high nor its enjoyment so widely diffused as now. The vine and the fig tree of hoariest tradition are growing to fulfillment.

On the field of the ideas the assumptions of the middle ages have been unsparingly overhauled and most of them have either been exploded outright, or greatly modified; and other conclusions, the peculiar product of modern thought, have been established in their stead. Throughout the physical universe, the demonstrations of science have supplanted the vagaries of men. Moreover, scientific conclusions have widened largely into moral ones, and moral ones on all the lines of divergence into those that are divine. As matters now stand, we have scripture penetrating and eradicating scripture. Revelation appealing to consciousness, and both sense and consciousness unitedly soliciting revelation. Testimony seeking alliance with testimony, text and context striking hands, light everywhere uniting and blending with light. Facts broadening into great political, moral and religious conclusions; party broadening into country and country into mankind. These and like conceptions leading on to another, broader and higher than they—not chance, nor fate, nor decree, nor the fitfulness and inconsistency of human will, but to the sublime conception of universal law, with nothing beyond but the supreme intelligence that created it, and through which that intelligence rules and reigns.

Nor have these great conclusions of modern times been unattended with practical consequences. Everything that distinguishes modern civilization in the overt from the mediæval in the overt comes of them. The great industries of the age come of them. A great nation has built upon them, and, by the illustrations of its wonderful history, is at once mastering the fears and the reluctance of mankind. Other nations are gradually shifting from off their traditional bases on to them. Nor has the conception of a universal intelligence among the people, one of the grandest of the generalizations referred to, been allowed to rest in idea. Vast educational systems have been established, and are kept running by social power to meet the ends of social necessity; and the intelligence so secured has stood with us, to all the conclusions of peace and war. The doctrine of human brotherhood, no more clearly borne out by revelation than by all the evidence bearing upon the question, more than begins to receive its dues. Of all the forms in which evil has organized itself there is but one which has afflicted our history—and that will afflict us no more. Slavery having lived the life of the Saurian, has died the death of the Saurian at last, and now lies buried in the formation to which it belongs. Hereafter the war upon social interests must, with us, be predatory and guerilla. Evil thrown upon its resources is one thing; intrenched in Constitution and laws it is quite another. In the one case it is as Cain without his protecting mask, in the other it is Titan armed.

We all see and acknowledge the historic change upon which I have been remarking, and it is but natural that we should desire to find out not merely its antecedents but its cause. What is it then that really bridges the chasm between the present and the mediæval? My own views upon the subject have probably been sufficiently indicated already, but I will venture to proceed with the question nevertheless. The point is essentially an historical one, and it is in that bearing only that I propose to discuss it.

The cause is not to be found primarily in the sentiments, nor in any part of the emotional nature of man. It was from the unregulated or badly regulated sentient nature that most of the evils with which the middle ages were afflicted proceeded. Going no farther back than the age of the puritans: there was never a style of men more conscientious than they.

Historians, neither descended from them nor in sympathy with them, are agreed that they were conscientious and God fearing. Nor were they unlearned. Few were the fields of thought which they had not visited, and from which they had not returned bearing sheaves. Their granaries were full. Nor did they lack dialectic skill. They knew the arrow of the Parthian warfare and could fire it from the saddle. The sling they knew and all the cunning that lies in fence. But these were more for holiday use. For serious work the weapons most familiar to their handling were the axe, the spear and the mace heavily loaded and knotted. Yes! they understood the use of weapons well enough. The best of modern Knights Errant who living in their day had challenged any of their men of mould to a trial of conclusions, expecting to win by dint of superior skill, would have found out most likely before he got through that he had mistaken his man. The earlier reformers were also conscientious men. They stood apart. They were not distracted like the clergy of to-day with many things. Childhood then did not go to Sabbath school, nor did it worry with picnics. Nor did charity make them the almoners of its bounty, nor did education make them the drudges of its systems. Samaritanism had not half secularized them. Nor in seasons of natural peril did they go to the front with the first levies—nor with the three hundred thousand more, and, forgetful of the proprieties of sacerdotal service, stand between the living and the dead in the hell of battle. Much less were they moved to put their names in advance on the roll of the Landstrum and patiently await the hour when national despair should summon its age and all that should be left of its youth and manhood for a last struggle. Their wills were rarely noncupative. Their lives indeed were distinguished and select. They were troubled, but it was mostly with controversy. They breathed the pure, thin atmosphere of polemical distinctions, and their consciences became both tender and tough by patient waiting upon the conclusions of sound doctrine. According to an accredited biography of one of the most distinguished of them, "the disinterestedness was rare. He had no other wish than to establish the opinions which he believed to be correct." He was a persecutor, however, to the death, and relentlessly inflicted the martyrdom he was always prepared to suffer. What was the deep-seated trouble with him? It was not the "wish" spoken of by his biographer, for like the kindred wish of St. Dominic and Torquemada, it was entertained in the interests of mercy and love. The wish was of course antedated by the opinions to which it related. The formation of his opinions was, or ought to have been, a purely intellectual process. When that process was completed, the reason certified the conclusion over to the conscience which up to that time had lain *couchant*, and the conscience gave its answering assurance that it would be morally wrong if he failed to stand by it and propagate it. Before the fires could be kindled, however, there was another judgment to be matured in the mind of the thinker. It related to a question of power, How far can I go in making my opinions the opinions of others? Must I confine myself to teaching and argument, or failing that, may I bring the thing to the conclusion of violence? The problem was for the brain and it solved it. The solution was erroneous, but the error was not of the heart but of the head acting in false method—or on wrong conditions of judgment, which comes to the same thing.

The change in question has been referred to the Reformation, but that is not ultimate. It has been ascribed in part to the printing press and the invention of gunpowder; but copy comes before types, and gunpowder cannot be exploded before it has been made. Again, the cause of this change has been found in the revival of learning. But occasion must not be taken for cause. What induced the revival of learning, and, when revived, saved it from hierarchal and dynastic direction, and made it subservient to mankind? Why did this revival become the herald of a new day, rather than another voice added to the night?

Nor can the change be ascribed to the passions. The theory is the ultramontane one. But the passions had little to do in determining the character of the middle ages except as their benighted leader called out to them from the front, they sending out their answering bay from the rear. They were the dogs of war, but they did not lead it. The leader and the led made wild work between them, but the responsibility was not altogether nor chiefly with the hounds; and who that considers that history is made primarily by ideas will doubt it?

The process by which the great revolution was affected was an intellectual one—sanctioned and aided by the sentiments.

There is an apprehension that makes man like a God. It comes of the reason. Though fallible there is nothing below omniscience less so than itself. The office of the reason is to distinguish between truth and falsehood; and in the light of evidence which it can appreciate, to determine what is. The *Scio* remains to it alone. Everything that relates to source, process, weight, result, belongs to it by appointment. It stands in the great office of judgment. Its absence is idiocy, its dethronement insanity. Humanity in the beastliness of appetite is the one case, in the other humanity walking and raving in illusion. The natural enemies of the reason are the appetites and passions; but they are so only when in excess. It is the office of the reason to restrain them, and to oppose its conclusions to their clamors when raised in the councils of the will. To that service it is impelled by its own instincts, the monitions of the conscience, the aspirations, and to some extent by the very passions between which and itself the issue is joined.

All things are of God, but under Him the credit of the great revolution is due primarily to the reason. It turned its attention in the first place to the question of its own rights and lawful jurisdiction; and going back of the holding that it had neither the one nor the other, it reversed the dogma, and established the right of private judgment in its stead. This result was reached by a process that had no trace of dogmatism about it, and therein lies the only assurance that it will never be reversed. It was based upon the consciousness, upon inductions drawn from individual and general experience, and upon scripture, the authenticity of which was wrought out by means of evidence that commended itself to the understanding. The reason having thus broken its own chain, acting, as at first, on its own instincts and under the incitement of the sentiments, proceeded to settle accounts with its oppressors. It attacked the vicegerency in its intrenchments, and badly breached, if it failed to carry and destroy them. Ever strengthened by scientific discovery, it attacked the doctrine of satanic agency, and sorcery its offshoot, and in the ripeness of its own councils it adjudged them to be mummeries, and there that matter ended. But I do not propose to go over the roll of the decisive battles won by the reason in its prolonged struggle for recognition as the leading crowning faculty of the soul. It is enough to say that as all things peculiar to the middle ages came of wrong judgments, resulting mainly from false method, so all things that distinguished modern times come of their reversal by the reason, and of right judgments reached by it through right methods and entered up by it for the use of mankind. It is, however, sufficiently exact, and would perhaps on the whole be quite as just, to say that modern civilization comes, under God, of the soul in the free council of all its powers, the reason presiding. It would be but a change rung upon the idea to say that it came of the human mind in balance—or of manhood, not fully restored, to be sure, but still in the process of being restored to its center. Or of the whole man; whole in thinking and in feeling; thinking and feeling in right order, and so reaching the result of right action in matters relating to policy, to morals, to religion and to mankind. God is no more in the present than He was in the middle ages. He knows no change. Christianity encounters no rival religious system now, and it was impeded by none then. The only new force in the field, is the human reason acting in intelligent alliance with the system by which it was once discredited and disowned.

The view that is presented as to the primordial cause of the differences between the present age and the mediæval is not new—if it had been it probably would not have engaged attention on this occasion. Though within the last few years the argument in favor of the exposition has been better marshalled and more fully illustrated than it ever had been before, yet it was long since accepted as the true solution of the greatest of historical problems. In this country the theory, if it has not won universal credence, has received the assent at least of the general judgment. The evidence of this is multiform, but there is one fact which is in itself decisive. With us all organized procedures, whether governmental or voluntary, looking to individual or social advancement, are based upon it. The *Scio* is everywhere brought to the front; not for one purpose but for all purposes; not in one connection alone, but in all connections. The relations of the intellect—enlightened and trained to the exercise of its powers in right method—to the heart and to the life of man, and to the growth and development of nations, have come to be understood and acknowledged. Dogmatisms have very generally gone to the rear, and, to some extent, have even become confused with the baggage—and it must be confessed that the baggage has not always been very vigilantly guarded. No one now admits that he proposes or wishes to excite a zeal not according to knowledge. It will be understood, I trust, that the term *knowledge* is used here in no narrow sense, but as comprehending everything that is, and as excluding nothing except that which is not; and it is entirely manifest that in this nation, taking it as a whole, an unproved dogma, no matter what may be the subject to which it relates, is not counted upon as being any part of its working or available knowledge. Now and then, to be sure, an individual dulls the edge of his own husbandry by a short dogmatic run. The mere politician, indeed, takes a longer run than there is any apology for. Standing on the last platform of his party he proclaims continually that—there is nothing like plank. He does not seem to reflect that there may be timber in the civil Lebanon uncut as yet—cedars, wherewith the future shall build platforms broader than any which party has ever stood on as yet, or can ever be made to stand on.

Lawyers continue to dogmatize without sensible abatement. But then they have the apology of position. With them what is writ is writ. But they show after all that they are in sympathy with their times by persistent strugglings at the barriers. When off duty they have been known to seek the springs that bubble and the pastures spread among the hills.

Physicians rarely dogmatize in council—oftener with their patients, but rarely with them. On the whole, perhaps, they may be regarded as unassuming. Their drift is to enquiry, and the habit is found to bear perceptibly on the ills of mortality. Sangrado is undoubtedly dead.

Divines dogmatize now very little, comparatively. Since the time of Paley, particularly, the clergy, both at home and abroad, have shown an ever-growing disposition to deal with evidence, and, like Paul at Athens, to reason with men of righteousness and judgment to come. Very many of our colleges are under their superintendence, but in their professorial chairs they do not teach by dogma. There are a few mathematical and philosophic truths which they assume as axiomatic, but it is because they are self-evident, or ultimate atoms, and therefore incapable of resolution; but should they attempt to add to their number, they would be rebuked by their own boys; and should they persist, it is but giving utterance to the simple fact to say that their establishments would be speedily emptied. Still, what vast ranges do they traverse with the rising hope of a nation behind them! But there is no danger. Let all fear be quieted. The methods of investigation and judgment which they adopt do not lead to unbelief in the bad sense, but to belief in the best. There was never an age like this in the number and magnitude of its intelligent convictions. Infidelity of the malignant type is at an end. The last atheist died not long after the last magician. They kept each other in countenance while they lived, and the blow that finished them came from the same quarter and was dealt by the same hand. The disposition to believe everything, and the disposition to believe nothing, though arising from different causes, are both amenable to the same cure.

There is a sin neither to be forgiven nor forgotten. What it is may be regarded as an open question. But if that form of evil which has worked the greatest calamity to mankind is entitled to the distinction, it lies at the door of that system of procedure by which the poises of our nature are deranged and destroyed.

As for the American statesman he was never much of a dogmatizer, and now he has ceased to be one almost altogether. He seems to have concluded from the first that Government should be based upon generic resemblances, and not upon accidental or forced differences. In view of the lesson of the last few years, added to the lessons of universal history, there is not only a disposition manifested to give full swing to that idea, but to a great extent the thing has been already accomplished. The great question of whether one man is as good as another to the intent of right and obligation—to which truth all the great decisive battles of the world from Marathon to Gettysburg stand in relation—has been settled at last. But how? Though under God—yet let it be remembered that

No earthquake reeled, no thunderer stormed,
No fetterless dead o'er the bright sky swarmed;
No voices in heaven were heard.

Though under God acting in the fixed methods of His providence, still humanly speaking, the conclusion came of the heads and the hearts of the people moving in balance in all council—of the average manhood of the nation acting in balance through all the exigencies of war; in camp—on the march—in the exchange of bloody conclusions in the field—in the loathsomeness of prisons—in the despair of slaughter pens—in hospital service—in the balanced completeness of national charity—in the intelligence of religious ministration—in the steadiness of hope always on its center, finding no undue elation in victory and no discouragement in disaster; and when the enemy, beaten in the war of his own choosing, awaited the vengeance which a nation of different drill would have been sure to deliver—by reason of the fact that that same balanced manhood spared them for the sake and for the use of the principle which victory has established; and further, for the reason that that same manhood, comprehending at a glance the whole field of policy and obligation, proceeded at once to secure to an outcast race the boon which its fidelity and valor had aided in winning. Conduct like this, leading to results like these, does not distinguish the history of nations trained in dogmatic methods, and it never will. There is a law in the way which man cannot repeal, and is powerless to resist.

The great conclusion referred to will never be repealed, for it has become one of the living convictions of a people who think and feel and act in poise, and who when they have acted—stand. Won, at the last stage, by the sword against the sword upraised to resist it, and made holy by sacrifice, the conclusion named will soon become the central principle of our organic law if it has not become such already.

The brotherhood of man, constitutionally recognized and upheld, is the true field of the cloth of gold, and over it alone can the truce of God ever be made to bend. Thereon, with us, shall be fashioned the decrees of an evergrowing wisdom. Thereon shall be matured the judgments, like unto that which the prophet translated, which may remain to be entered up, and thence shall be proclaimed the excelsiors of the future.

VII

LAST HONORS

TRIBUTES TO THE HONORED DEAD

"IN MEMORIAM"

Lines to the Memory of Oscar L. Shafter, who died in Florence, Italy, and was buried in Oakland, California.

(*From the New York Evening Post.*)

"Where the west wind blows through the evergreen trees,
And the fogs go sailing by,
'Mid the lupine blooms and humming bees,
'Tis there I fain would lie.

"These Italian skies are very fair,
Around are mosaics and sculptures rare,
And ruins of temples old;
And here where the Arno's waters flow
The gems of Raphael and Angelo
These princely galleries hold.

"But I'd rather sleep on the western shore,
Where the broad Pacific wave
In solemn music would grandly roar
A requiem o'er my grave."

Then bear him gently across the main,
And away toward the setting sun,
Though we never shall hear that voice again,
And his earthly task is done.

The eye is quenched that in sympathy glowed
For the wrongs of the struggling one,
And still the hand that so freely bestowed
The aid he denied to none.

But well he'll sleep on the western shore,
Where the broad Pacific wave
In solemn music shall grandly roar
A requiem o'er his grave.

SUPREME COURT MEMORIAL

The following extracts are made from a memorial prepared by the Supreme Court of California, after Judge Shafter's death, a special committee having resolved that "a brief biographical sketch of his life and an analysis of his intellectual and moral character," would be the most fitting tribute to pay to the memory of their dead associate.

"It was sometimes said of him, while at the Bar, that he was slow in the preparation of his cases. This was only another mode of saying that when he encountered a case that presented elements new to him, he was never satisfied that it was fully prepared for trial, until he had subjected those elements to an analysis and classification which enabled him to master their minutest details.

"So of his decisions as a Judge it was not seldom remarked that they savored of technical logic. But this was merely confounding logical analysis with the logic of the books. If his decisions have any prominent characteristic, it is that they present constantly the ruling presence of that faculty which combines the similar and rejects the dissimilar, and descends from the general to the specific. So that, in truth, his cases at the bar were not too laboriously prepared, nor his decisions too elaborately wrought. He merely applied to each the methods of study which are above described. As a consequence he was very successful at the Bar, and his decisions from the Bench have been rarely questioned.

"While at the Bar, no one was more scrupulous than he in the respect with which he treated the judiciary, both in bearing and in language. He regarded it as the palladium of our free institutions, and not to be desecrated by thought, word or deed. And when he came to the Bench, he magnified his high office in the same spirit and honored his associates there. No one was more thoroughly imbued than he with that personality which made him identify with himself the highest function of the State, and with that impersonality which removed him from every influence except a desire for judicial truth. . . .

"We have spoken of his strong family affections. He was also an attached friend. His was not an impulsive nature, but his feelings were deep and permanent. He was remarkably genial in his social relations; he loved the society of young men, to talk with them, counsel them, encourage them in their plans and studies. His religious principles were fixed, and comprehensive enough to embrace all mankind. Exact in his business, he was yet bounteous and liberal in his benefactions. The large sums which he disbursed in this manner would never have been known, even to those who knew him best, if they had not been entered, from mere habit, in the accounts which he kept of all his expenditures. He could not listen unmoved to the cry of distress, and when it was sometimes urged that the objects of his bounty were probably unworthy, he would reply that that responsibility was theirs and not his. He was an ardent student of nature, and loved to be a boy again amid mountains, forests, fields and waters. And on such occasions he showed an apt familiarity with the best poets of the English language, which caused it to be said of him that 'he was a learned lawyer of an older school,'—one whose reading was not of the lawbooks merely, but extensive, varied and tasteful. His sense of humor was great, and frequently illumined his logic with a sudden flash of light. His language was generally elegant in its simplicity, but he did not reject the word which best expressed his meaning, no matter what its origin; and the occasional unconscious use of quaint expressions showed the extent of his reading among the older writers of the tongue.

"Such is an imperfect outline of the man, the lawyer and the judge. It is full of example, of encouragement and of warning. Of example to those who are content with the rewards which belong to personal integrity, professional fidelity and political consistency. Of encouragement to those who are willing to win success as the prize of industry and perseverance. Of warning that there is a price too dear to be paid for great professional success, high position and abundant wealth; that mind and body when overworked often react upon themselves and upon each other, and present the sad spectacle of a noble column riven from capital to base long before it topples to its fall."

A large assemblage of the Bar was in attendance during the proceedings, which were conducted with all the impressiveness and solemnity due to the memory of the distinguished deceased.

In the course of Memorial Proceedings in the District Court of San Francisco, Judge McKinstry paid the following tribute to Judge Shafter:

"I cordially agree with the gentlemen who have so eloquently eulogized the character of the late O. L. Shafter in their estimate of his eminent talents as an advocate and services as a Judge. Of course I have had occasion to study the peculiarities of the more distinguished members of the bar and of Judge Shafter I observed that his logical arrangement was always happy, the language which clothed his argument generally if not always appropriate. Ordinarily his words were the simplest and purest English, but he could indulge in quaint and sudden turns of expression which recalled for an instant the latent humor of the man, and were sometimes wonderfully efficient, presenting a moral demonstration in a single picturesque phrase. He was ever prepared to illustrate his theme by the results of a most extensive and varied reading. He was, in short, a learned lawyer of an older school, whose mind had been thoroughly trained in the common law and steeped in its principles, and he resorted to codes and statutes only to ascertain how far the common law had been departed from. Yet in a proper way no one was more progressive than he, none more capable of applying principles, in themselves unchangeable because based upon immutable justice, to the complicated relations of our day. He was a man of independent views and heart. His political opinions were avowed openly and urged strenuously at a time when they had been adopted but by a very small minority; his moderation and magnanimity in the hour of triumph might well have been imitated by those who had become convinced of the correctness of such opinions only when their triumph was imminent. My personal intercourse with Judge Shafter was always pleasant. I recall his genial manner in private life; at the Bar his courtly bearing to Bench and counsel.

"He was a most successful man in a worldly sense. He was successful not only in such sense, but in that he had established a distinguished name long before he had ceased an active participation in the busy scenes of professional life. It was very sad to hear that his great reputation—a splendid column—towered towards the last amidst the majestic ruins of the intellect which had builded it; but his friends may well believe that this best of memorials will continue to stand—*monumentum aere perennius*—while learning and ability shall be respected in the profession he adorned."

Tribute from a brother lawyer.

In Memoriam.

Oscar L. Shafter, Obiit Jan. 23, 1873, *Aetatis* 61.

We find the chapter has been ended, and "finis" written at the close, yet ere we shut forever the volume that, in all our experience of its pages, whether of sunshine, of mirth and of sweet wisdom, has given us so much good, we return on the wings of memory and glide slowly over the course again from the beginning to the end. It is the method of every thoughtful and grateful heart. Our lives are human books, yielding much or little good, and the close of every human volume bids us think and weigh, and if worthy, speak.

But yesterday he, whose life was a daily record and teacher of thoughtfulness, of wisdom, of patience, of courtesy, of gravity and mirthfulness, of singular tenderness, of modest benevolence and parental love, was here and speaking, and to-day the record is finished, and the volume closed forever.

For twenty years among us, none ever knew him who did not gain from him more knowledge of himself, so contagious was his patient consideration, and so suggestive the fullness of his wisdom. For two decades he was here, an earnest and untiring worker in the rugged and arduous way of a profession of whose long and distant journey no man can know every step, but traveling over which none ever found more true, or surer, or more faithful guide.

The way he went was always upward, with firm and eager step, and where his footsteps stayed their onward march, who here traveling the same path could say that they could find him save by looking upward and beyond them?

There came a time when the people knew his wisdom, and sought him first and with united voice to take the highest seat in their human temple, where to guide our feet we look most for wisdom, dignity and truth. It was we that sought him, and not he any place the people could give.

He did not need us to make him wise and true, or do him honor. From himself, from his earnest soul, his ceaseless labor and reverence for wisdom beyond himself, he was most honored. And raise him, as we half believed we did, he was himself always at a height above the reach of our poor lever.

But the strength given him had its human limit, and the large mind that for half a century had never ceased to solve the problems of human circumstances, has worked its last lesson, and has been drawn aside (if so it be) into the society of the great thinkers who have gone before. His tender and considerate heart has ceased to beat; its deep emotions to move again only in sympathy with those of the "just men made perfect."

The bell tolls and the widow weeps, and children listen in vain for that voice of affection, and the courts are silent for a day, and his brethren will not know again his logic or his philosophic speech. Every man who knew him remembers him as one wiser and better than himself, and at his new-made grave utters a requiescat and farewell.

Tribute from him who often has been called the first president of the University of California, inasmuch as he was the first president of the College School, out of which it grew. The Rev. S. H. Willey, in the wavering hand of extreme old age, indited the following lines:

SANTA CRUZ, CAL., Feb. 22, 1873.

MY DEAR MRS. HOWARD:

Let me bring a single leaf of green, in honor of the character of my valued friend, your father.

With expressions of heartfelt sympathy,

I am, yours,

S. H. WILLEY.

California was not the only State to deplore Judge Shafter's untimely death. From the State of his birth came many expressions of regret and sympathy. The Bar of Windham County passed resolutions extolling him, and his portrait occupies an honored place in its court house. Among all the letters that came to the afflicted family, none was more prized than the following testimonial from an aged friend of his early youth.

RICHMOND, VIRGINIA, 1106 DOBSON ST.

MRS. HOWARD,
Oakland, Cal.

MY DEAR MADAM:

. . . Your father was the idol of all the people of Southern Vermont. In intellectual finish he had no peer, and when he died a great life went out. In Athens, his native town, no character was more admired. The letter from the daughter of the friend of my young life was least expected; it revived remembrances as nought else could do. I could say much of his early promise and of the royal life so soon cut down. I will briefly allude to the schooldays of Mr. Shafter, and while the lights of his boyhood home were still burning for him. I was in Middletown, Conn., soon after his graduation, and in conversation with the president of the university which was his cherished Alma Mater, and others connected with the institution, I was told much of your father's distinction in debate, as well as in scholarship. Whenever it was known he was to address the societies of the college, students as well as citizens rallied to listen to his eloquence. Dr. Cummings assured me that no one among the long line of students there ever reached the high plane, in all the college work, which was occupied by Oscar L. Shafter.

The first year of your father's residence in California, I met him in the office of Park & Billings. His greeting was marked by all the warm attachment of early friendship. When he made his last visit to Vermont I received a call from him in company with your grandfather. In that brief hour we recalled the ties of early days, and when we parted the handshake and the good-bye were the last forever between us.

Cordially yours,

S. B. Wells.

MEMORIAL DISCOURSE

Delivered March 31, 1873, in the Independent Presbyterian Church, Oakland, California, by the Rev. L. Hamilton.

Once in a decade or two of years, we see a life come to a close which has concentrated in itself the progressive thought and experience of the time. The great world-history going on without has its parallel in that which goes on in a single breast. The man measures the time. The features of its progress daguerreotype themselves essentially in his mind and heart. Beginning by force of circumstances in something that is crudest, he ends by force of inherent truthfulness and grasp of thought in that which is ripest. The brilliant but ephemeral blossoms of spring are soon cast; the more sober but more lasting beauty of summer follows; this changes again into the rich ripeness of autumn—then winter garners the whole growth of the seasons.

Such a life is a beacon of progress to common minds. If one falls under our observation we slight God's good providence if we neglect to study it. We can see in it if we will, not only where we are, but where we shall be. It is a prophecy of what is coming. In it we see ruling tendencies reach their accomplishment. The forces that are moving in the great complex man we call society, run their course and come to their last result in this individual man. The average man of the future, when humanity has grown tall enough to see as broadly as he sees, will stand where he stood when we last beheld him. He throws light on the questions we debate most in our parlors and shops and lyceums. We see the decision of many of them reached in him, or at least the discussion carried so far as to point the way to their decision. We need not repeat the experiment he has made. We can foresee in him how it will result. The thought of men can step forward to an advanced position over the ground which he has conquered.

We should not be over-hasty, indeed, in falling into the lead of great minds, however great they may be. We should be mindful of the fact that the greatest thinkers in the whole history of thought have been the greatest errorists. So they were honest in purpose we need not reproach their errors. To think in advance of other minds, is to help forward human progress, even if the thinking be mingled with error. To state a great error with power in an unexplored field of thought often leads to the great undiscovered truth that lies directly over against that error. It is only a little more roundabout way to the good thing that humanity needs. So we welcome great *honest* thinkers, whatever the track their minds take. We need not therefore welcome their mistakes. Their mighty conceptions may be but centaurs and hippogriffs; there may be nothing real in nature answering to them. They may be the exceptional outgrowths from the idiosyncrasies of the thinker. They may be the abnormal vagaries of a wrenched and distorted intellect. They *may be* the voice of God. We should wait for the verification of the true test—the common consent of minds great enough to grasp the subject. Watch the judicial mind as it comes in contact with the question at issue, the temper calm, the method wise, the process slow and careful, the conclusion deferred until all the evidence is in. When you see this higher order of thinkers, under diverse circumstances and influences, strike off from the old beaten path at different points of departure, and with singular unanimity take some new road that leads to a common conclusion, it is safe for you to predict that the many will soon turn into their course of direction. It may not lie exactly along the line of absolute truth, but it is more nearly parallel to that line than the old track. Humanity never again takes its onward march along the old road. A few stragglers may stumble on in that way for a time, but their thinning number soon find the loneliness intolerable.

Eminent among this higher order of minds stood the late Judge Shafter. He was a type of the time. He ran through the progress of the age in his own experience. He began in the crudest thought; that he ended in the most advanced I am not competent to say, but that he had reached a point far in advance of the multitude, there is abundant testimony more conclusive than mine. Hence the special public value of his life. Few examples will better repay our study. I should not be excused if I failed to use the occasion to gather up some of its rich suggestions.

My object is not panegyric. The Bench, the Bar, and the Pulpit have united in his eulogy. I fear I should weaken what has been said with power, by any additions I might attempt to make. Nor will I attempt an exhaustive analysis of his character. It would be too presuming in me. I leave that to more familiar and skilful hands. My object is rather to turn your attention toward those phases of his many-sided thought and experience which look towards our work as a Christian congregation and our want as Christian men and women seeking after the truth of God.

. . . In religious faith and connection he was a Methodist. . . . At about fourteen he was placed at a Methodist Academy at Wilbraham, Mass. It was during his several years of study at this institution that he was caught in a whirlwind of religious excitement—as he would describe it afterwards,—"was struck with conviction," "went forward to the anxious seat," "had great wrestlings with the spirit," and "got converted." For six months his zeal knew no abatement. He was "instant in prayer and exhortation, in season and out of season," prompt at class-meeting, and was pointed out as a model. But his inner life did not run smoothly. He suffered torturing doubts. He felt that his religion was artificial—a striving after moods, feelings, fervors, raptures. Somewhat abruptly he came to the conclusion that he was not being honest with himself or with others. He went straight to the Church and said so, and that he could go no further with it. Henceforth he would be true to himself if his soul was lost for it! If any religion wanted him to be less than that, so much the worse for the religion. His coming to this State in 1854, the immediate recognition of his abilities, his law partnerships with the first legal talent of the State, his firm stand as an anti-slavery man when the name of "Black Republican" was a reproach, his self-consistent adherence to this stand through all the exciting scenes that followed, his gradual rise into the notice and confidence of the people, his election to the Supreme Bench of the State in 1863, his unimpeachable and unsuspected integrity as well as ability in that position for four years, then the sudden failure of his health compelling his resignation, his efforts for recovery, the long wavering of his friends between hope and fear—the hope growing fainter, the fear verging towards sad certainty—till the final word flashed under the sea from a foreign city telling us that the end had come and the great soul had taken its place among the immortals—all this has been made as household matters to you by the public press.

It falls not in with my purpose to dwell longer in detail upon the events of his life. I have now to speak of Judge Shafter's religion.

Like the Prophet, he had sought to know "the righteousness of the Lord"—had asked "Wherewith shall I come before the Lord and bow myself before the high God?" The spirit of "technical" religion, busy in our day as in the day of the Prophet, with its arbitrary rules and tests and exactions, had told him that it must be with some special sacrifice, some self-mortification of the reason, some unquestioning beliefs that commended not themselves to his judgment, some special experience, coming in mystery and fed by a faith that he dare not criticise. He had thought long and earnestly, with the simple desire to know the truth. He had come to the same conclusion with the Prophet: "He hath showed thee, O man, what is good; and what doth the Lord require of thee but to do justly, and to love mercy, and to walk humbly with thy God." Here is the universal religion, good for all ages, for all races and ranks of men. We may assure ourselves that it will stand good while the world stands. . . . To walk in justice, mercy and humility before God . . . makes the Christian. Judge Shafter believed this. To say that some special belief or mystical experience must be added, he held as the cant of a technical faith. Justice, Mercy and Humility are the rock. The conceits of formalists and pietists are the ever changing mists that hang over it, sometimes, as seen from the dim distance, mimicking the rock in form and appearance, but never attaining its stability—ever disappointing as you approach and attempt to find firm foothold thereon. He never returned to the bosom of the Methodist Church. And why? Was it because of prejudices? These were rather in favor of the church. The memory of his revered mother, his dearest educational associations, some of his most intimate friends, drew him towards her communion. Was it from personal hostility to religion? He was a devout worshipper of God. As his writings abundantly showed, he was what the church would call "a man of prayer." At every piece of good news or instance of unusual prosperity there is a heartfelt expression of thankfulness to the divine source of blessing.

When sad tidings came, or calamity befell, he turned to his closet, his Bible, and his God for strength and comfort. And no puritan with his catechism was more diligent in the family than he in inculcating the great truths of religion, reverence towards God and love to man. This never ceased till disease broke his strength. The world may have given him little credit for his religion. He did not wear it on the outside for show. It was in the heart, in the honest doing of the thing given him to do, and in quiet deeds of goodness to men. The church sometimes called him an infidel. His piety did not run in the channel of her ceremonies or bear the stamp of her dogmas.

It was for none of the causes suggested that he declined returning to the bosom of his mother's church. It was because as an honest man he could not. He loved the truth; he was seeking the truth; he was ready to receive it wherever he could find it; he was ready to do whatever it exacted of him; but he could not find the truth in its highest and purest form in the church. *The love of truth kept him out of the church.* She exacts much, as he believed, that God does not exact. She teaches, along with much that is good, some things that are an offense to reason and a dishonor to God. His great mind could stop short of no other conclusion. And the Methodist Church is not to be singled out as peculiar in this. The other sects prominent among us occupy common ground with her so far as his objections went. None of them could make room for him.

This is to me the most impressive suggestion of his greatness and goodness. The churches must make room for such a man, or that grand day of broader light that hastens on will have no room for them. Educate a people till they love the truth as well, and can see as broadly as Judge Shafter did, and they will not go into our churches, as they are. These churches might easily make room for such. They must revise their standards, and purge them of such absurdities, which the broadly educated mind can never look upon as other than absurdities. Germany is saying this to us to-day. Oxford is saying it. Cambridge is saying it. Yale is saying it. Every center of learning and superior intelligence in Christendom is saying it. The guild of scientific men all over the world, with an approach to unanimity that ought to be alarming to one who really loves the church and sees its importance, are saying it. It is a question of life and death with the church. Her teachers may shut themselves up in their little circle of thoughts and deny that there is any broader flow from the Fountain of Eternal Truth, but the mightier minds of the world, that, like Judge Shafter's, have swept through their lines, and out into the ocean that rolls all around them, will see their mistake, and will never strike back towards the center of darkness and ignorance for the sake of sailing in their company.

Scan the life of this man, put his character under the test of the closest scrutiny, make the most of his imperfections common to our nature or peculiar to him, and then say in view of the pure and exalted character you are compelled to confess he bore, whether he is to be placed outside the pale of Christianity; or if he is, whether anything ought to be left inside that the world has much reason to value.

He was a just man. Take this passage from his own writings as illustrating the sentiment on which this virtue is based. I shall be excused for quoting it, although it was intended only for the eye of his own family. He is writing for the benefit of his own little boy—alas! soon after called to another world, blasting the hope and almost breaking the heart of the fond father. He says, "I trust, also, that my boy will be a *good* lawyer, which is the same thing as saying, 'I trust he will be a good man,' free from all chicanery, honest in his dealings with court and jury, and perfectly truthful in all his relations to his clients." This was the sentiment upon which he based his practices as a lawyer not only, but as a man. If he was rigid in exacting what was due him from others (as all successful business men must be as a rule), he was equally rigid in giving their dues to others. As a Judge his impartiality commanded a confidence that was well nigh perfect. The suspicion of a bribe never rested on him. There was something in the man that corruption dared not approach. It would instinctively have forecast its own discomfiture and stern rebuke.

He was also merciful. I have no motive for saying that he did not love money; by admitting that fact I only strengthen the proof of the intensity with which he "loved mercy." He gave without ostentation, but liberally and continuously. Worthy want never turned away from him empty. Struggling merit had numerous occasions to bless his bounty. Sometimes his friends thought he was lavish in gifts where the worthiness of the object was questionable. His reply was that he feared mistake and would rather give to the unworthy than to let real want go unrelieved. It was a maxim with him that "If you would keep your sympathies fresh and the heart green, you must keep giving; if you stop you shut up and rust, like an old jack-knife which no one can get open." Quaintly put, but a mighty truth. He blessed himself in practice. His generosity did not stop with tens of dollars, nor with hundreds, nor with thousands, nor with tens of thousands, although he took no pains that the public at large should hear of its extent. One who had the best opportunity to know writes of him, "I know personally of tens of thousands of dollars disbursed by him without any hope of return."

Judge Shafter was thought by some to be a man of hard, cold logic, as the chief characteristic of his mental constitution. Nothing could be a greater mistake. He was severely logical in his mental processes, but along with this went an endowment of the keenest sensibility. At the reading of a noble sentiment or a touching incident, this would often show itself, trembling over into tears. The voice would fail, and expression rise to the power of a speechless silence from the quivering intensity of feeling. When thoroughly roused in his own utterances his imagination would glow with true poetic fire. The golden ingots of his logic would melt and flow in streams of burning emotion. . . . But it was in his own family that these tenderer qualities showed themselves in their fullest power. It was there that his exhaustless stores of thought and knowledge poured themselves forth untiringly in streams of wise and affectionate suggestions. His children tell me that they came to live on his words and to regard their author with an almost idolatrous reverence. If the church was not visited on the Sabbath, as often during their earlier residence in Oakland it was not, they found a richer treat at home. The day was made sacred to them by words that kindled their higher purposes and lifted their souls to God.

ONE OF HIS PRINCIPLES OF LIFE

Extract from letter, Oscar L. Shafter to his daughter Emma, at Wilmington, Vermont, dated San Francisco, June 16, 1855.

"I am glad that you are so actively engaged beautifying the grounds around the house, and opposing the breath and the bloom of flowers to the gloom that gathers over the place of the dead. Whether in the orderings of Providence we spend the rest of our lives in Wilmington or elsewhere, it matters not, for every tree and flowering shrub planted by our hands, every rough place made smooth and attractive by our labor, will link us the more nearly and fondly to the past."

Extracts from a discourse by the Rev. Charles W. Wendte, delivered at the first Unitarian Church, Oakland, California, Sunday, September 4, 1892, on the subject of the stained glass window placed in the church to the memory of Oscar Lovell Shafter, by his daughters.

"The parable of the sower is one of the most beautiful examples of the art in which Jesus excelled, the art of conveying instruction by story-telling. In it a whole series of profoundly important lessons, illustrative of the nature and progress of truth, the characteristics of human nature, and his own mission as a religious teacher, are imparted in a graphic and attractive form, making this parable one of the religious classics of mankind. To represent this parable therefore on our window is most appropriate and grateful to our Christian feeling. It expresses our thankfulness to that Great Teacher to whom we owe the inestimable privilege of meeting here for instruction and worship; whose disciples we reverently acknowledge ourselves.

"The lessons of the parable are many and apparent, and so familiar to you by long and endeared association, that I will not dilate upon them at any length. Its central purpose is to illustrate the work of Jesus as that of a sower who goes forth to sow a new spiritual seed in the fields of humanity, and with clear eye foresees that, through the peculiar and varying constitution of human nature, only a portion of those whom He addresses will give lasting entrance to His words. . . .

"Agriculture is the earliest of the civilizing arts. It marks the passage of wild and roving man to settled occupations, to domestic virtues, to the beginnings of a social and political order. It gives birth also to science, for in a rude way meteorology and chemistry are involved in the occupation of the husbandman. Agriculture is the surest and best basis for man's social and political life; the farmer, the most important factor in the constitution of the State. Happy that nation whose wealth is in its fields and orchards, whose strength and pride are not in its great cities,—abodes of mammon and misery,—its manufactures, mines or its forests, —but in the healthful toil, the distributed ownership, the productive occupation, the manly independence and worth of a predominantly agricultural population. It was so in Palestine in Jesus' day. It is so in increasing measure—thanks be to God—in our own fair and favored California. The window we dedicate to-day has then this added significance in our eyes—it glorifies one of the great natural vocations of mankind, the activity, peaceful and beneficent, of the agriculturist.

"I reckon it especially fortunate for our purpose that in the composition of the design of our window we were guided by that wonderful work of modern art, François Millet's picture, 'The Sower.' Himself the son of a peasant, spending his early life in the fields and woods, living for thirty years in a humble home on the edge of the great forest of Barbizon, Millet felt himself called to a sacred mission—to paint the toil and struggle, the pathos and poetry, the sadness and dignity of agricultural life. The art of his day and nation, devoted to mere technique in painting, following art for art's sake solely, could not understand or appreciate him. It scoffed at the man who, with his great talents, was content to be poorly rewarded while following an ideal of art so humble and commonplace and repulsive. It did not know what to make of a painter who read his Bible nightly, and had religious convictions, and wore wooden shoes, and sympathized with the poor laborers about him, and painted their toils, joys and sorrows with such exquisite feeling, such marvelous power. Appreciation, honors, and riches came to him at last, when he no longer had any use for them. Millet died as he lived, with dignity and an entire consecration to a noble art, leaving to humanity his priceless contribution to the enlarging sympathies and spiritual perceptions of mankind, those matchless pictures, 'The Sower,' 'The Reapers,' 'The Gleaners,' 'The Man with the Hoe,' and 'The Angelus.'

"It is a picture of Millet, 'The Sower,' which the artist who designed our window has followed as closely as the nature of the material in which he worked would permit; a limitation we should always remember in criticizing pictures on glass. But he has introduced into it certain adjuncts of the Biblical story which make it more suggestive to our Christian consciousness. The central figure, the sower, which in Millet's picture is shrouded in gathering gloom, has been set in our window in the midst of the rays of the morning sun, making it still more illustrative of the parable, 'the sower went forth to sow.'

"Let the illumined pane over our altar remind us then, from Sunday to Sunday, of this noble occupation of mankind, lifting our thoughts to a large and grateful sympathy with that great host of toilers in field and orchard who labor that our hunger may be stilled and all else be possible to us. As often as we utter the petition, 'Give us this day our daily

Plate X. In the Bosom of the Hills, Punta de los Reyes Rancho
Marin County, California

bread,' may our uplifted eyes behold in the picture of the sower a beautiful reminder of the eternal bounty of our Father in Heaven who has ordained that harvest ever shall follow seedtime, who gives us the fruits of the earth in due season, and crowns the year with his goodness.

"Aside from these general considerations, the window we dedicate this morning possesses a more direct personal interest as the memorial of a noble man, who was honored and loved by his family and friends while he lived, and whose memory is dear and sacred to them now that he is gone. The reference to the late Judge Oscar L. Shafter on the tablet affixed to yonder wall is so extremely modest, that while I respect the fine delicacy of feeling which has been displayed by his surviving family, I cannot forbear saying a few words this morning in reverential appreciation of his many sterling qualities as a man and a citizen.

"We may divide society into two classes, sowers and reapers. The reapers are those who, living in older, more developed communities, have inherited from the past its accumulated treasures of wealth, art and culture. The sowers are the men who go forth into new and unsettled countries to clear the forest, to break the soil, to cast into the furrows the seeds of a higher civilization, to build up communities and cities, manufactures and trades, to lay in equity and justice the foundations of the civil and political order. In this sense the men who, forty or more years ago, came as pioneers to these Pacific shores, were sowers. Their struggles and hardships, their sentiments and services, their characters and lives are bearing fruit to-day in the domestic, business, social and political life of our young commonwealth. What we are in these respects we owe chiefly to their husbandry. Their memory should ever be honored by succeeding generations. Not all their sowing was well considered and helpful. Many there were who sowed the wind and reaped the whirlwind; many tares of evil habit, greed, passion and sin were cast by these early pioneers into the loosened earth which miner's pick or ranchman's spade upturned to the sun. By that inexorable law of the moral order, 'What a man soweth that shall he reap,' their lawless spirit and wicked deeds have become infused into the moral fiber of California life, a power for evil that retards the better growth of temperance, virtue and faith.

"But there were still more representatives among these early pioneers, of established character, of manly courage and self-denial, of respect for property, for law and human life. Their principles, their example and influence are embodied in the homes, the institutions and the prevailing moral sentiment of the people of our State. They were sowers of the good seed of righteousness and piety, which has brought forth abundant fruit, some thirty-fold, some sixty-fold, and some one hundred-fold.

"Of this nobler type of citizenship was the man whose character this illumined window at once illustrates and perpetuates. Judge Shafter was an admirable example of what was best in New England character and tradition, broadened and enriched by the larger opportunities and sterner disciplines of pioneer life at the West. . . . He was the honored head of a large and loving family. Coming to California in 1854, he, together with his able and distinguished brother, Judge James McM. Shafter—who has just passed away full of years and honors,—speedily attained a high rank among the legal profession of this State, and perhaps no State of its age has produced so many able jurists as California. In 1864 Judge Oscar Shafter took his seat as Associate Justice of the Supreme Court of California. . . .

"This is the merest outline of the leading incidents in an active, useful, upright and happy life. It is totally inadequate to give you a worthy picture of the man himself: what he was in himself and what he was to those who best knew and loved him. I remember, when a youth, in San Francisco, to have known by sight and met Judge Shafter. I was too young to have had the privilege of his acquaintance. . . . All bear witness to the beauty and integrity of his personal character, his upright life, and his eminent public services.

"My friends, so true and devout a man, so faithful a public servant, may well be honored in our church. It lends an additional interest and beauty to the window which perpetuates his memory among us, forcibly impressing us with the word of ancient piety: 'He who soweth to the spirit, shall of the spirit reap life everlasting.' "

SOWING

O, seekest thou fair fruit where thou hast cast
The seeds of thought or good into the soil?
Or dost thou sigh, when ripened days at last
Show fruitage strange, or weeds to pay for toil?
O, lookest thou for blossoms in a heart
Which thy fond hand hath tilled with fearful care?
Thou weepest sore when unrepaid thou art.
The love-tilled heart lies blossomless and bare—
O, sowest thou with love and fears,
O, reapest thou with sighs and tears?

REAPING

The planting of the best thou hast to give
Moved some dull mould to bloom with fruitage fair.
Love, hope and fear may show no fruit, yet live
In places new to thee, and blooming there
Perfected grows the blossom vainly sought,—
The heart love-tilled holds worlds to thee unknown,
Fields shining bright with flowers of thy thought—
Seek thou that place and pluck the fruit there grown.
O, hast thou grown with tears of love?
Thy blossoms touch the skies above!

OSCAR LOVELL SHAFTER

THE DEATH-SONG OF THE HEMLOCK

BY JULIA C. R. DORR

Ye say I am old—I am old; and ye threaten to hew me down,
Lest the roof of your puny dwelling should be crushed by my heavy crown.
Ye measure my spreading branches, ye mock me with idle fears—
Ye pygmies that creep at my foot-stool, what know ye of age or years?

I reckon ye all as shadows! Ye are but as clouds that pass
Over the face of the mountains and over the meadow-grass;
Your generations are phantoms; like wraiths they come and go,
Leaving no trace behind them in the paths they used to know!

But I! For six hundred rolling years I have stood like a watch-tower, I!
I have counted the slow procession of centuries circling by!
I have looked at the sun unblenching; I have numbered the midnight stars;
Nor quailed when the fiery serpent leaped from the cloudy bars!

Or ever ye were a nation, or your commonwealth was born,
I stood on this breezy hilltop, fronting the hills of morn,
In the strength of my prime uplifting my head above meaner things,
Till only the strong winds reached it or the wild birds' sweeping wings!

It was mine to know when the white man ventured the unknown seas,
And silence fled before him and the forest mysteries;
I saw his towers and steeples that pierced the unfathomed sky,
And his domes that darkened the heavens, but above them all soared I!

He builded his towns and cities, and his mansions fine and fair,
And slowly his fertile meadows grew wide in the tranquil air;
He stretched his iron pathways from the mountains to the sea—
But little cared I for his handiwork! 'Twas the one great God made me!

The earth and the sun and the mighty winds and the great God over all,
These bade me stand like a sentinel on the hilltop grand and tall.
Know ye that a hundred years ago men called me old and worn?
Yet here I tower above their graves, and laugh them all to scorn!

For what are threescore years and ten, ye creatures of a day?
Ye are to me like the flying motes that in the sunshine play!
Shall I tremble because ye threaten and whisper that I am old?
I will die of my own free, lordly will ere the year has shed its gold!

But till then as I stood or ever the land of your loves was born,
I will stand erect on my hilltop, fronting the hills of the morn,
In the pride of mine age uplifting my head above meaner things,
Till only the strong winds reach it or the wild birds' sweeping wings!

DECISIONS
WRITTEN BY JUDGE SHAFTER DURING FOUR YEARS' SERVICE ON THE SUPREME BENCH

1. People v. Jean Bruzzo. Deft. appealed. Taylor & Hastings for Appellant, Atty. General McCullough for Respondents. Judg't affirmed.
2. Pedro Rodriguez et al., Executors, v. Samuel Comstock et als. Defts. appealed. George Cadwalader & B. F. Ankeny for Appellants, R. F. Peckham for Respondents. Judg't reversed and new trial ordered.
3. Augustus Schenck and Adolphus Schwartz v. John Evoy and Joseph Mulliken. Defts. appealed. M. S. Chase for Appellants, Thos. A. Brown for Respondents. Judg't reversed and new trial ordered.
4. John W. Owen v. W. R. Frink and J. J. Peko. Plff. appealed. Whitman and Wells for Appellant, M. A. Wheaton for Respondents. Judg't affirmed.
5. Charles H. Willson v. A. H. Broder. Deft. appealed. E. W. F. Sloan for Appellant, A. T. Wilson for Respondent. Motion for rehearing denied.
6. S. C. Hastings v. E. W. Dollarhide, George Olinger, John J. Bassett, Oliver L. Bassett, Robins McCoy, J. T. Thompson, Isaac Kirkendall, Wallis Joslin, Mary Joslin, and Alfred M. Jamison. Plff. appealed. Whitman & Wells for Appellant, John Currey for Respondents. Judg't reversed and new trial ordered.
7. *James M. Warner v. D. B. Holman. Petition denied and judgment affirmed. Whitman & Wells for Appellant, John Currey for Respondent.
8. Robert H. Vance v. E. Eliza Fore, Wm. A. Sublett, Frank Williams, Wm. Butcher, J. W. Hill, D. V. Thompson, R. C. Marshall and John Fore. Plff. ap-

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*Supplementary opinion.

pealed. W. W. Stow and John Reynolds for Appellant, Whitman & Wells for Respondents. Judg't affirmed.

9. D. J. Wood and S. D. Wood v. The Truckee Turnpike Co. Plff. appealed. Chas. E. Elkins and Geo. Cadwalader for Appellants, Van Clief & Bowers for Respondent. Judg't reversed.

10. R. W. Noble and Margaret Noble v. Thomas K. Hook, Joseph Jones, R. B. Parker and Charles E. Gorham. Order dissolving injunction affirmed. Plffs. appealed. J. B. Hale for Appellants, Cobb & Tyler, and Jenkins, for Respondents.

11. Jose J. Uridias v. John C. Morrell. Deft. appealed. S. O. Houghton for Appellant, Yoell & Williams for Respondent. Judg't reversed and cause remanded.

12. Trinity County v. John McCammon, William Quine, James Edgcomb and John Musser. Geo. Cadwalader for Appellant, E. F. Allen, Dist. Atty., for Respondents. Defts. appealed. Order reversed and injunction ordered dissolved.

13. Herman Lackman and Henry Backus v. Joseph M. Wood and Emily Wood. Defts. appealed. J. F. Swift for Appellants, G. F. & W. H. Sharp for Respondents. Judg't reversed, new trial ordered.

14. James Lick v. Jerome Madden. Plff. appealed. Wm. S. Wood, and Winans & Hyer, for Appellant, E. B. Crocker for Respondent. Judg't reversed and cause remanded.

15. B. Aitken and J. Prescott v. E. T. Mendenhall. Deft. appealed. Chas. A. Tuttle for Appellant, Jo Hamilton for Respondents. Judg't affirmed.

16. Fostina E. Hurlburt v. George F. Jones. Plff. appealed. Geo. Cadwalader for Appellant, Robinson & McConnell for Respondents. Judg't affirmed.

17. F. B. Higgins v. J. F. Houghton, Surveyor General of the State of California. Deft. appealed. Atty. General McCullough for Appellant, A. S. Higgins for Respondent. Judg't affirmed.

18. William D. Porter v. Robert H. Elam. Deft. appealed. John Reynolds for Appellant, A. N. Bennett for Respondent. Judg't affirmed.
19. William Bosworth v. Charles Danzien. Plff. appealed. E. A. Lawrence for Appellant, J. I. Papy for Respondent. Judg't reversed and new trial ordered.
20. William H. Crowell v. Sonoma County. Deft. appealed. Atty. General McCullough for Appellant, A. Thomas for Respondent. Judg't reversed and the court below ordered to dismiss the action.
21. Silas Lent v. Charles Morrill, O. F. Morrill, William A. Grover and D. W. Chambers. Defts. appealed. Gregory Yale for Appellants, S. W. Holladay and James G. Carey for Respondents. Judg't affirmed.
22. Lloyd Tevis v. John S. Ellis, John Wade, David Calderwood, Charles B. Harwood and Francis Kattendorff. Plff. appealed. Patterson, Wallace & Stow for Appellant, Wm. W. Chapman for Respondent. Order dissolving injunction affirmed.
23. C. E. Herron v. J. Hughes, W. Nichols and P. Nichols. Defts. Nichols appealed. Tuttle & Fellows for Appellant, Hamilton & Arnold for Respondent. Judg't reversed and new trial ordered.
24. Jeremiah Clarke v. William Huber. Deft. appealed. Wallace & Stow for Appellant, J. Clarke for Respondent. Judg't affirmed.
25. William Galland and D. W. Galland v. E. J. Lewis and Charles Harvey. Plff. appealed. Wm. H. Rhodes for Appellants, Wm. S. Long for Respondents. Judg't reversed.
26. John V. Wattson v. Thomas H. Dowling and P. G. Peltret. Plff. appealed. H. S. Love for Appellant, A. & H. C. Campbell for Respondents. Order affirmed.
27. Charles A. Low v. Pliny C. Allen, Alexander G. Ramsdell, Eugene H. Tharp and George F. Sharp. Plff. appealed. Wm. Barber for Appellant, Geo. F. & Wm. H. Sharp for Respondent. Judg't affirmed.

28. *Bourland v. Hildreth.

The full title being:

John L. Bourland v. George A. Hildreth (Sheriff);
R. E. Gardiner v. W. A. Davies (Clerk);
Thomas Norwood v. D. M. Kenfield (Treasurer);
Edward Smyth v. W. H. Cummings (Recorder);
Caleb Dorsey v. Hugh G. Platt (Dist. Attorney);
William Weinbeer v. John York (Dist. Assessor);
P. C. Birney v. J. H. Hurd (Dist. Assessor);

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*This was the celebrated "Soldiers' Vote" case, in which Justice Shafter put forth, in a long and logical opinion, his grounds for a decision which has been questioned many times since, but ever has been sustained by the highest judiciary of the land, although at the time it was handed down it not only was directly opposed to popular sentiment, but was in violation of his own patriotic impulses and desires. In 1863 the State Legislature of California had passed an Act requiring the Adjutant General of the State to make out a list of the names of all electors resident in said State, who should then be in the military service of the United States, and to deliver such list to the local Secretary of State before the 15th day of July, 1863. The Secretary of State was required to classify and arrange this list and to make therefrom separate lists of the electors belonging to each regiment, battalion, squadron and battery, from his State, which should then be in the service of the United States; and on or before the 20th day of July, 1863, to transmit to the commanding officer of each such division a list of the electors belonging thereto, specifying the name, residence and rank of each such elector and also the County, Congressional, Judicial, Senatorial and Assembly Districts, for officers of which the electors respectively should be entitled to vote. Furthermore, this Act arranged for the placing of ballot boxes and the receiving and forwarding of votes from all such electors in military service, whose votes so given should be "considered, taken and held to have been given by them in the respective counties of which they were residents."

The operation of the Act was limited to the single year 1863, and was designed to preserve the right of franchise to California volunteers enlisted in the defense of their country during the Civil War.

In Tuolumne County 215 soldiers' votes were received under the operation of this Act, 90 of the 215 being at camps within the State, and 125 outside of its limits. This soldiers' vote upset the calculations of the politicians. The movement to have the Act declared unconstitutional, however, found support among leading lawyers, and it was upon purely legal principles and precedents, and because it conflicted with the requirements of the State Constitution, that Justice Shafter reaffirmed the judgments of the county courts of Tuolumne, which, hearing the consolidated cases of the contesting officials, had excluded the votes cast by the soldiers, and had thereby annulled and set aside the results of the election, as declared by the Board of Supervisors, the latter having attempted to interpose its authority, giving judgment that the plaintiffs had been lawfully elected.

James McCabe v. George B. Keyes (Dist. Assessor).

Defts. appealed. George Cadwalader for Appellants, Caleb Dorsey and H. P. Barber for Respondents. Judg'ts reversed.

29. Robert B. Ellis v. Thomas Jeans, Willis Long and W. B. Long. Defts. appealed. John Currey and M. A. Wheaton for Appellants, P. W. S. Rayle and P. L. Edwards for Respondents. Judg't reversed and cause remanded.

30. William M. Stoddard v. L. L. Treadwell and George R. Carter. Defts. appealed. H. H. Hartley and J. P. Treadwell for Appellants, Crocker & Robinson for Respondent. Judg't reversed and cause remanded.

31. *The People of the State of California ex rel. Nelson Pierce, Nelson Pierce and the Dead Whale Asphaltum Mining Company v. Charles Morrill. Plff. appealed. Eugene Casserly for Appellant, J. B. Crockett for Respondent. Order dissolving injunction reversed.

32. †A. S. Hurlbutt v. Peter Butenop. Deft. appealed. George & Loughborough for Appellant, Samuel J. Clarke, Jr., for Respondent. Judg't affirmed.

33. William K. Reed v. Thomas Spicer and Daniel Spicer. Plff. appealed. Coffroth & Spaulding for Appellant, H. P. Barber for Respondent. Judg't reversed and cause remanded.

34. The People v. Thomas Blackwell. Deft. appealed. Tyler & Cobb for Appellant, Atty. General McCullough for Respondent. Judg't reversed and cause remanded.

35. John N. Kernan v. John Griffith. Plff. appealed. John B. Hall for Appellant, Tyler & Cobb for Respondent. Judg't reversed and cause remanded.

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*This case involved the ownership of 160 acres of State tide lands in Santa Barbara County, the site of the first large asphaltum mining plant in California.

†A contest for the title to the celebrated Agua Caliente Rancho in Alameda County.

36. *Thomas W. Millard v. Charles W. Hathaway and Edmund V. Hathaway. Defts. appealed. John T. Doyle and W. W. Crane, Jr., for Appellants, A. M. Crane and Edward Tompkins for Respondent. Judg't affirmed and rehearing denied.
37. Jefferson Wilcoxson and Jackson Wilcoxson v. Charles H. Burton, John E. P. Spillman, John B. Burton, Edward McCarty, and S. Marshall, late Sheriff of Sacramento County. Plffs. appealed. J. W. Winans for Appellants, H. H. Hartley for Respondents. Appeal for new trial denied.
38. †People v. Walter Skidmore, Walter A. Skidmore, Egbert van Allen, and Louis Denos. Defts. appealed. Bradley Hall for Appellants, Patterson, Wallace & Stow for Respondent. Judg't reversed and new trial ordered.
39. Rudolph Steinbach v. Jacob P. Leese, Geo. W. Baker and Alfred G. Jones et al. Defts. appealed. Patterson, Wallace & Stow for Appellants, Brooks & Whitney for Respondent.
40. ‡The People v. Preston Hodges. Deft. appealed. J. G. McCallum, J. M. Williams, and Coffroth & Spaulding for Appellant, Atty. General McCullough and C. Goode for Respondent. Judg't reversed and cause remanded.
41. George T. Crowther v. Thomas Rowlandson and Eliza J. D. Rowlandson. Defts. appealed. P. G. Buchan for Appellants, Hoge & Wilson for Respondent. Order modifying decree against Defts.
42. Peter H. Burnett v. R. Pacheco, Treasurer of State. Plff. appealed. George R. Moore and C. T. Ryland for Appellant, Atty. General McCullough for Respondent. Judg't affirmed.

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*Suit brought by Edward Gibbons to quiet title to a large tract of land in the heart of the Oakland of to-day.

†Action upon a recognizance entered into by defendants to secure the appearance of Skidmore on a murder charge.

‡Hodges was charged with having hired Pool and others to murder Joseph M. Staples.

43. John Agnew v. Steamer Contra Costa. Defts. appealed. E. W. F. Sloan for Appellant, Wm. H. L. Barnes for Respondent. Judg't affirmed.
44. J. L. Buckout v. Francis P. Swift, Margaret Swift and John Lowell. Plff. appealed. Geo. Cadwalader for Appellant, E. B. Crocker for Respondents. Judg't affirmed.
45. Charles McLaughlin v. Cesar Piatti, Liberati Piatti and Daniel Murphy. Defts. appealed. Hoge & Wilson, and Wm. T. Wallace and S. O. Houghton for Appellants, Cook & Hittell, Campbell, Fox & Campbell for Respondents. Judg't reversed.
46. People ex rel. J. W. Dickenson v. E. M. Banvard. Deft. appealed. Jo Hamilton for Appellant, Chas. A. Tuttle for Respondent. Judg't signifying assent to a new trial.
47. People v. Ah Ping. Deft. appealed. Van Clief & Gear, and J. M. Haven for Appellant, Atty. General McCullough for Respondent. Judg't affirmed.
48. The People v. Eugene Cazalis. Deft. appealed. John B. Felton and J. W. Stephenson for Appellant, Atty. General McCullough for Respondent. Judg't reversed and cause remanded.
49. Horace W. Carpentier v. Greene W. Webster. Plff. appealed. E. R. Carpentier for Appellant, Campbell & Brummagen for Respondent. Judg't reversed and new trial ordered.
50. Robert J. Vandewater v. P. A. McRae, John C. Fell, Wm. P. Denckla and M. Fuller. Defts. appealed. Hoge & Wilson for Appellants, Delos Lake for Respondent. Order granting new trial affirmed.
51. A. Deland v. Harvey H. Hiett. Plff. appealed. H. K. Mitchell and Geo. Cadwalader for Appellant, N. E. Whitesides for Respondent. Judg't affirmed.
52. Henry Levy v. Henry Getleson and Ernest Pestner. Plff. appealed. Wm. W. Chipman for Appellant, W. P. C. Whitney for Respondent. Judg't affirmed.

53. Jacob P. Leese v. William A. Clark. Deft. appealed. Clarke & Carpentier for Appellants, Brooks & Whitney for Respondent. Order and judg't affirmed.

54. The People ex rel. Wm. C. Stratton v. George Oulton, Controller of State. Wm. C. Stratton in pro. per. for Relator, Atty. General McCullough for Respondent. The Writ of Mandate asked for was awarded.

55. D. D. Carder v. C. M. Baxter, Walter B. Minturn and William Beggs. Plff. appealed. Temple & Thomas for Appellant, Wm. D. Bliss for Respondents. Judg't reversed and new trial ordered.

56. The People ex rel. John Sturgis and Mark Shepard, Judge of the County Court of Contra Costa Co. H. Allen for Relator, M. S. Chase for Respondent. Petition dismissed.

57. James B. Haggin et al. v. William S. Clark et al. and Nathan Rogers. Plffs. appealed. Brooks & Whitney for Appellants, James M. Taylor for Respondents. Order appealed from was affirmed.

58. Edward Franklin v. Thomas Dorland. Deft. appealed. Edward Tompkins for Appellant, E. F. Head for Respondent. Judg't reversed and new trial ordered.

59. C. H. Horn v. William Jones, J. G. Fordyce, and the Volcano Water Company. Defts. appealed. P. L. Edwards for Appellants, John W. Armstrong for Respondent. Judg't affirmed.

60. Samuel C. Harding v. Turner Cowing and H. E. Reanard. Defts. appealed. Bennett, Cook & Clarke for Appellants, E. W. F. Sloan for Respondent. Judg't affirmed.

61. Benjamin Walls, Admr. Estate Manuel Vera, deceased, v. Wm. Preston. Plff. appealed. Whitman & Wells for Appellant, M. A. Wheaton for Respondent. Judg't affirmed.

62. E. F. Jones and H. H. Hewlett v. James Frost. Deft. appealed. John B. Hall for Appellant, Tyler & Cobb for Respondents. Judg't affirmed.

63. Thomas Jones v. Wells, Fargo & Co. Defts. appealed. John H. Saunders for Appellant, Jo Hamilton for Respondent. Judg't affirmed.

64. W. F. Zeigler v. Wells, Fargo & Co. Defts. appealed. John H. Saunders for Appellant, Jo Hamilton for Respondent. Judg't affirmed.

65. People v. Charles King. Deft. appealed. Tyler & Cobb for Appellant, Atty. General McCullough for Respondent. Petition for rehearing denied.

66. E. McComb and Zaccheus Beatty v. William J. Reed, Seth Kinman, John Quick, J. P. Albee, R. M. Williams and Wm. Taylor. Defts. appealed. Delos Lake and Robert F. Morrison for Appellants, James C. Carey for Respondents. Court below was directed to modify judg't.

67. Henry J. Abbott v. C. D. Douglass. Deft. appealed. Delos Lake and Robert F. Morrison for Appellants, P. L. Edwards for Respondent. Judg't reversed and new trial ordered.

68. People v. James Corbett. Plff. appealed. Atty. General McCullough for Appellant, Wm. M. Zabriskie for Respondent. Order affirmed.

69. H. W. Carpentier v. M. Mendenhall et al. Plff. appealed. E. R. Carpentier for Appellant, Thos. A. Brown and John Reynolds for Respondent. Motion for judg't on the verdict denied.

70. People ex rel. Vantine v. Isaac N. Senter, County Judge of Santa Clara County. Eugene B. Drake for Relator, Clarke & Carpentier for Respondent. Petition for writ denied.

71. Edward Lally v. Morris Wise and M. Stern. Plff. appealed. G. F. & W. H. Sharp for Appellant, Edward Tompkins for Respondent. Judg't reversed and new trial ordered.

72. H. M. Moore v. W. R. Morrow. Deft. appealed. J. J. Caldwell for Appellant, A. A. Sargent for Respondent. Judg't affirmed.

73. Frances M. Bennett v. Edward L. Bennett. Deft. appealed. H. H. Hartley for Appellant, J. G. McCullough for Respondent. Judg't reversed and new trial ordered.

74. People v. Sneath and Arnold. Defts. appealed. Henry H. Hartley for Appellants, M. M. Estee for Respondent. Judg't reversed, and ordered that judg't be entered in favor of Deft.

75. James M. Burt, Executor Est. of Thos. B. Walker, deceased, v. E. P. Wilson, Administrator Estate of James C. Wilson, deceased. Plff. appealed. J. E. N. Lewis for Appellant, Hatch & McQuaid for Respondent. Judg't reversed and cause remanded.

76. Eugene B. Buffendeau v. Benjamin S. Brooks and Thomas B. Valentine. Plff. appealed. James C. Carey for Appellant, Brooks & Whitney for Respondent. Judg't affirmed.

77. Benjamin F. Ferris v. Henry P. Irving, Administrator Estate of Joseph K. Irving, deceased, Wm. McKenzie and Ambrose S. Hurlburt et al. Plff. appealed. Sharp & Lloyd for Appellant, Samuel J. Clark, Jr., and Wm. H. Glascock for Respondents. Judg't affirmed.

78. Jerome Lincoln v. Colusa County. Plff. appealed. H. H. Hartley for Appellant, Hatch & McQuaid for Respondent. Judg't affirmed.

79. John S. Hager v. James Shindler and Simon Shindler. Defts. appealed. E. Casserly for Appellants, Delos Lake for Respondent. Judg't affirmed.

80. Catharine Fordyce and Benson B. Fordyce v. C. P. Ellis, D. Woldenbergh, H. A. Thompson and Edward Stockton. Plffs. appealed. H. H. Hartley for Appellants, Robert C. Clark for Respondents. Judg't affirmed.

81. The San Francisco and San Jose Railroad Company v. David Mahoney and James G. Denniston et als. Plff. appealed. Charles N. Fox for Appellant, Sharp & Tompkins, and T. J. Bergen, for Respondents.

Judg't affirmed as to value of land condemned, and as to residue, judg't reversed and cause remanded.

82. James C. Hunsaker v. Josiah Sturgis. Deft. appealed. Clarke & Carpentier for Appellant, Sloan & Provines for Respondent. Judg't reversed and new trial ordered.

83. M. Gradwohl v. L. B. Harris and M. H. Turrill, Defts., and S. Wangenheim and Isaac Blum, Intervenors. Defts. appealed. H. H. Hartley for Appellants, Coffroth & Spaulding for Respondents. Judg't reversed and new trial ordered.

84. H. Leffingwell v. Frederick Griffing. Deft. appealed. Grey & Brandon for Appellant, Brooks & Whitney for Respondent. Appeal dismissed.

85. James L. McDonald, Williamson Graham and Joel Stoddard v. Benjamin Askew, Sr., Benjamin Askew, Jr., and A. Askew. Plffs. appealed. J. L. Ashford and G. N. Sweazy for Appellants, W. C. Belcher and J. O. Goodwin for Respondents. Judg't reversed and new trial ordered.

86. Lucian Skinner v. William Buck et als. Plff. appealed. W. T. Wallace, Clarke & Carpentier, for Appellant, S. O. Houghton and Wm. Matthews for Respondents. Judg't affirmed.

87. William Meyer, Louis Wormser and Simon Wormser v. H. Kohn and William L. Dauterman. Plffs. appealed. P. L. Edwards for Appellants, Moore & Alexander for Respondents. Judg't modified.

88. William Davis v. Mark Livingston, Frank Livingston, W. P. C. Stebbins, Samuel Sheldon and Joseph Gosling, Defts., and James Brockaw and Samuel Metcalf, Intervenors, and Chester Brown and Asa R. Wells, Intervenors. Defts. appealed. Crockett and Whiting for Appellants, R. P. and Jabish Clement for Respondents. Judg't reversed as relating to claims for Davis, affirmed as to Brown and Wells, and modified as to Brockaw and Metcalf.

89. The People ex rel. William Grow v. A. M. Rosborough, County Judge of Shasta County. J. G. McCullough for Petitioner, A. M. Rosborough in pro. per. for Deft. Order made absolute.

90. The People ex rel. W. H. Blood v. A. P. Moore, County Judge of Plumas Co. H. H. Hartley for Relator, Creed Haymond and J. D. Goodwin for Deft. Application for Writ of Mandamus denied.

91. J. H. Coghill and Company v. Samuel Marks, and John Gross, Assignee of Robert Marks, Intervenor. Intervenor appealed. Tyler & Cobb for Appellant, J. B. Hall for Respondents. Order appealed from, affirmed.

92. William Lord v. Horace Hopkins. Plff. appealed. Daingerfield, Highton & Hambleton for Appellant, Charles Westmoreland and Geo. Cadwalader for Respondent. Judg't reversed and cause remanded.

93. A. J. Baber v. Anna McLellan, and Anna E. Irwin, Intervenor. Plff. appealed. Pixley & Smith for Appellant, George G. Blanchard for Respondent. Judg't affirmed.

94. Matthew Tarpy v. J. M. Shepherd. Deft. appealed. Peckham & Payne for Appellant, Julius Lee for Respondent. Judg't affirmed.

95. W. Boulware v. C. C. Craddock, James O. Harris and Samuel H. Pippi. Plff. appealed. L. J. Ashford for Appellant, J. Hart for Respondents. Judg't reversed.

96. The People v. Thomas Byrnes. Deft. appealed. Cope, Daingerfield & Hambleton for Appellant, Atty. General McCullough for the People. Judg't affirmed, and the Court directed to appoint a day for carrying the sentence into execution.

97. The People v. Charles English. Deft. appealed. M. A. Wheaton for Appellant, Atty. General McCullough for People. Judg't affirmed.

98. The People v. F. S. Lardner, Treasurer of Sacramento County. Deft. appealed. H. H. Hartley for Appel-

lant, M. M. Estee, District Atty., for the People. Judg't affirmed.

99. Manuel Cariaga v. W. G. Dryden. Plff. appealed. A. B. Chapman for Petitioner, W. G. Dryden in pro. per. for self. Petition dismissed.

100. Frederick A. Hihn v. Henry W. Peck and Francis Brady et als. Defts. appealed. Sloan & Provines for Appellants, R. F. Peckham for Respondent. Judg't affirmed.

101. The People v. William Farrell. Deft. appealed. Coffroth & Spaulding, and W. M. Zabriskie, for Appellant, Atty. General McCullough for the People. Judg't affirmed.

102. Samuel A. Morrison v. John Wilson and Ann R. Wilson. Plff. appealed. E. W. F. Sloan for Appellant, Williams and Thornton for Respondents. Judg't reversed and new trial ordered.

103. *The people, by F. M. Pixley, Atty. General, ex rel. Henry E. Teschemacher v. Benjamin Davidson, Julius May, J. R. Coryell, Thos. Bell, Peter Donahue and Joseph Donahue, Executors of the last will of James Donahue, deceased. Defts. appealed from order granting new trial. H. & C. McAllister, and J. P. Hoge, for Appellants, William Hale and Gen. McCullough for Respondents. Order appealed from reversed, and judg't affirmed.

104. Daniel Troy v. Jeremiah Clarke et als. Plff. appealed. Wallace, Patterson & Stow for Appellants, Elisha Cook for Respondent. Judg't affirmed.

105. J. E. Henry v. G. L. Everts and P. Everts. Defts. appealed. Chas. A. Tuttle for Appellants, Jo Hamilton for Respondent. Judg't affirmed.

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*A bill to restrain defendants from erecting a wharf from the north line of Chestnut Street in San Francisco, toward and into the deep waters of the bay, it being alleged that the wharf, if erected, would greatly interfere with and hinder commerce.

106. Napa Valley Railroad Company v. The Board of Supervisors of Napa Co. Deft. appealed. W. W. Pendergast for Appellant, C. Hartson and P. W. S. Rayle for Respondent. Judg't affirmed.

107. John McPherson v. R. B. Parker, W. J. Lowry and Frank Stewart. Defts. appealed. Frank T. Baldwin and John C. Byers for Appellants, M. G. Cobb for Respondent. Judg't reversed and cause remanded.

108. Thomas Bodley v. Parthenia S. Ferguson and Matthew Fallon et als. Plff. appealed. W. T. Wallace for Appellant, D. P. & A. Barstow for Respondents. Judg't affirmed.

109. John Tuohy v. J. F. Chase. Plff. appealed. J. B. Hall for Appellant, M. G. Cobb for Respondent. Judg't affirmed.

110. John D. Havens v. George Dale et als. Plff. appealed. Tully R. Wise for Appellant, Chas. N. Fox for Respondents. Judg't modified.

111. Evan Jenkins v. Daniel Frink, G. W. Moody, James C. Braley, Jacob Shumway, Wesley Gallimore and Daniel L. Moody. Brady and Gallimore appealed. J. P. Hoge for Appellants, Patterson, Wallace & Stow for Respondents. Judg't affirmed.

112. County of Mendocino v. J. B. Lamar and James S. Ray. Defts. appealed. Henry H. Hartley for Appellants, J. G. McCullough, Atty. General, for Respondent. Judg't reversed and cause remanded.

113. James Crook v. William K. Forsyth. Deft. appealed. P. G. Buchan for Appellant, Tod Robinson and John R. Jarboe for Respondent. Judg't affirmed.

114. People ex rel. B. F. Alexander v. Charles H. Swift, President of the Board of Trustees of the City of Sacramento. Plff. applied for peremptory mandamus. Moore & Alexander for Relator, Charles H. Swift in pro. per. for Deft. Prayer granted.

115. Thomas G. McLeran v. J. E. Benton, Egbert Judson, James L. King and J. Purrington. Plff. appealed.

Sloan & Provines for Appellant, Patterson, Wallace & Stow for Respondents. Judg't reversed and new trial ordered.

116. J. H. Poett v. Abel Stearns, P. Domic and J. M. Hellman. Plff. appealed. M. & R. F. Morrison for Appellant, Volney E. Howard for Respondents. Judg't reversed.

117. S. C. Hastings v. D. N. Hastings. Deft. appealed. J. E. Abbott for Appellant, L. B. Mizner for Respondent. Judg't affirmed.

118. P. B. Reading v. Margaret Mullen. Deft. appealed. Geo. Cadwalader for Appellant, R. T. Sprague for Respondent. Judg't reversed and new trial ordered.

119. Ex parte Peter D. Hedley, application for habeas corpus. Quint & Hardy, and Alexander Campbell, for Petitioner, H. & C. McAllister *contra.* Prayer denied and prisoner remanded.

120. William A. Dana v. The Jackson Street Wharf Company. Deft. appealed. John B. Felton for Appellant, S. Heydenfeldt for Respondent. Judg't reversed.

121. *James B. McMinn, Executor of the last will and testament of Wm. S. Reese, deceased, v. George D. Bliss and John O'Connell and Harry O. Gough et al. Defts. appealed. T. J. Bergin for Appellants, E. W. F. Sloan for Respondent. Judg't reversed and new trial ordered.

122. E. McDonald v. F. Katz and John Lahm. Deft. appealed. Chas. A. Tuttle for Appellant, Jo Hamilton for Respondent. Judg't affirmed.

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*Involving title to land running from Jackson to Washington Street, west of Polk, and also for block bounded by Washington, Jackson, Van Ness Avenue, and Franklin Street and running to within 120 feet of Gough Street. It is interesting to read that this especial section, now valuable and a somewhat exclusive and aristocratic neighborhood, was in November of 1863 the site of a slaughter house!

123. *People v. Mariposa Company, and the Real Estate known as "Las Mariposas Estate" or "Fremont Grant." Defts. appealed. J. B. Felton and Theodore H. Hittell for Appellants, Atty. General McCullough for the People. Judgment reversed and cause remanded, with leave to plaintiffs to amend complaint.

124. Lake Merced Water Company v. Samuel Cowles, County Judge of the City and County of San Francisco. Petition for Mandamus. Patterson & Carpentier for Relator, Haight & Pierson for Respondent. Prayer granted.

125. Henry Leffingwell v. Frederick Griffing. Deft. appealed. B. S. Brooks for Appellant, Gray & Brandon for Respondent. Judg't affirmed.

126. A. J. Plate v. Placido Vega and Felipe Arrellano. Plff. appealed. Patterson, Wallace & Stow for Appellant, W. H. L. Barnes for Respondents. Judg't reversed and new trial ordered.

127. †The People v. Jacob Smith. Deft. appealed. Goodwin & Burt for Appellant, Atty. General McCullough for the People. Judg't reversed and new trial ordered.

128. The People v. Marshall Young. Appeal from order setting aside indictment for perjury. Atty. General McCullough for People, Archer, Ryland & Williams for Respondent. Order reversed and cause remanded.

129. The City and County of San Francisco v. David Calderwood et al. Defts. appealed. J. M. Seawell for Appellants, John W. Dwinelle and John H. Saunders for Respondents. Judg't reversed and the court below instructed to enter judg't for Defts.

130. M. Began v. John O'Reilly, Michael O'Reilly and George W. Cox. Defts. appealed. Van Clief &

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*Action to recover $7088.23 taxes from Fremont estate.

†Jacob Smith was convicted of murder in the first degree, in Butte County. The decision held that the court was in error in excluding evidence tending to show heredity insanity, inasmuch as the crime itself was wholly without cause or reason, and opposed to every reasonable motive.

Cowden for Appellant, Creed Haymond for Respondent. Judg't affirmed.

131. Charles F. Lott v. H. K. Mitchell and E. M. Root. Defts. appealed. Geo. Cadwalader for Appellants, Jos. E. N. Lewis for Respondent. Judg't reversed and cause remanded.

132. The People v. Carl Shaber. Deft. appealed. George W. Tyler for Appellant, J. G. McCullough, Atty. General, for People. Judg't affirmed.

133. In the matter of J. B. Brown. Application for Habeas Corpus Writ. I. S. Brown for Petitioner, J. G. McCullough, Atty. General, *contra*. Prayer denied.

134. A. B. Bowers and A. C. Sweetser v. Board of Supervisors of Sonoma County. Application for Writ of Mandate. Temple & Thomas for Motion, Latimer & McCullough, and Moore & Alexander, for Petitioners. Application dismissed.

135. Abner Reed and Joseph Gordon v. David Calderwood. Deft. appealed. David Calderwood in pro. per. for Appellant, S. M. Wilson and A. P. Crittenden for Respondent. Judg't affirmed.

136. Theodore Le Roy v. Emerantienne Rassette. Plff. appealed. Edward L. Pringle for Appellant, Clarke & Carpentier for Respondent. Motion granted to strike out statement.

137. F. C. Anderson v. James C. Pennie. Application for Writ of Mandate against Justice of Peace. Granted.

138. Zenith Gold and Silver Mining Company v. William Irvine. Plff. appealed. S. B. Axtell for Appellant, H. P. Barber for Respondent. Order affirmed.

139. Joseph Kile and Reese B. Thompson v. Silas Tubbs. Plffs. appealed. John B. Hall for Appellants, J. H. Budd for Respondent. Judg't affirmed.

140. E. Rondell v. Caleb T. Fay et als. Plff. appealed. Cutter & Washington for Appellant, Barstow & Tompkins for Respondent. Judg't reversed and new trial granted.

141. George Dougherty v. C. Foley. Plff. appealed. O. L. Lane for Appellant, Daniel Rogers for Respondent. Judg't reversed and new trial ordered.

142. Louis Bruck and wife v. Reason P. Tucker et al. Plffs. appealed. B. S. Brooks for Appellants, C. Hartson for Respondents. Judg't reversed and new trial ordered.

143. J. J. Robbins v. The Omnibus Railroad Company. Deft. appealed. Haight & Pierson for Appellant, Horace M. Hastings for Respondent. Judg't reversed and new trial ordered.

144. Michael Nolan v. Michael Reese. Deft. appealed. Haight & Pierson for Appellant, James Mee for Respondent. Judg't affirmed.

145. Edward Ewald, and Thomas Dorland v. John C. Corbett, and John C. Corbett, Administrator, and Henrietta Corbett, Administratrix of the Estate of William Corbett, deceased, and Vincenzo Zelna. Defts. appealed. R. R. Provines for Appellants, B. S. Brooks for Respondents. Judg't reversed and new trial ordered.

146. Pio Pico v. Nicolas Colimas, Antonio Canto, and O. P. Passons. Plff. appealed. Glassell & Chapman, for Appellant, V. E. Howard for Respondents. Judg't reversed and new trial granted.

147. D. Ghirardelli v. John L. Bourland et als. Defts. appealed. H. P. Barber for Appellants, E. F. Hunter for Respondent. Judg't reversed and cause remanded.

148. Thomas W. More v. Peter Massini et als. Plff. appealed. S. F. & J. Reynolds for Appellant, Casserly & Barnes for Respondents. Judg't reversed and new trial granted.

149. Joseph Love v. Sierra Nevada Lake Water and Mining Company, William George, John Bates, Charles Bates, A. Homphrey, Administrator of the Estate of P. Homphrey, deceased; John Ridgway, Francis Wedgwood, Hensleigh Wedgwood, and Charles

Robe. Defts. appealed. James A. Johnson, and Creed Haymond, for Appellants, P. Van Clief for Respondent. Judg't affirmed.

150. John H. M. Townsend, by Samuel J. Hensley, his Guardian ad litem, v. Drury J. Tallant et als. Defts. appealed. John W. Dwinelle for Appellants, E. Casserly, and Doyle & Barber, for Respondents. Judg't affirmed.

151. Charles M. Siter v. William C. Jewett, William R. Gorham, and William H. Taylor. Plff. appealed. J. S. Blatchley, and Edward Tompkins, for Appellant, Doyle & Barber, for Respondents. Judg't affirmed.

152. N. K. Masten v. Frederick Griffing. Plff. appealed. Grey & Brandon for Appellant, B. S. Brooks for Respondent. Judg't affirmed.

153. Ebenezer Wormouth v. Theodore H. Hatch and Richard M. Brandon. Plff. appealed. John Reynolds for Appellant, Grey & Brandon for Respondents. Judg't affirmed.

154. John W. Reed v. The Omnibus Railroad Company. Plff. appealed. J. A. Fletcher for Appellant, Casserly & Barnes for Respondent. Judg't affirmed.

155. James Enright v. The San Francisco and San Jose Railroad Company. Plff. appealed. Moore & Laine for Appellant, C. T. Ryland for Respondent. Judg't affirmed.

156. Ex parte Shrader on Habeas Corpus. Haight & Pearson for Petitioner, J. G. McCullough for Respondent. Writ denied and prisoner remanded.

157. C. Hebrard v. The Jefferson Gold and Silver Mining Company. Plff. appealed. F. J. McCann and J. O. Goodman for Appellant, G. N. Sweazy, and Chas. E. Filkins for Respondent. Judg't affirmed.

158. John Rohr v. James McCaig. Deft. appealed. L. J. Ashford for Appellant, Rowe Bliss, and J. G. Eastman, for Respondent. Judg't affirmed.

159. Isaiah W. Francis v. J. W. Cox et al. Plff. appealed. B. S. Brooks for Appellant, Patterson, Wallace & Stow for Respondents. Order affirmed.

160. The Carson River Lumbering Company v. Robert Patterson. Deft. appealed. H. Cook, and Nathaniel Bennett, for Appellant, J. G. McCullough for Respondent. Judg't reversed and cause remanded for new trial.

161. Louis E. Miller v. Theresa Miller. Deft. appealed. Tweed & Craig, and Hale & Fellows, for Appellant, Jo Hamilton for Respondent. Judg't affirmed.

162. George Howard v. George Roeben. Plff. appealed. Earl Bartlett for Appellant, C. Wittram for Respondent. Judg't reversed and new trial granted.

163. David Mahoney v. A. J. Van Winkle et als. Plff. appealed. T. J. Bergin for Appellant, B. S. Brooks for Respondents. Order affirmed.

164. George F. Sharp v. E. Daugney, Cora Weller, Antoinette Jambois, and L. Cadiz. Defts. appealed. Patterson, Wallace & Stow for Appellants, G. F. & W. H. Sharp for Respondent.

165. James Brown v. J. J. Ayres et als. Plff. appealed. Cutter & Washington for Appellant, W. P. C. Whiting for Respondents. Order reversed.

166. John N. Keeran v. Francis R. Allen. Plff. appealed. John B. Hall for Appellant; no brief for Respondent. Rehearing denied.

167. August Ahrens v. Bar Adler. Deft. appealed. Jarboe and Harrison for Appellant, Thompson Campbell for Respondent. Judg't affirmed.

168. Robert H. Vance, and Faxon D. Atherton v. Jose Demetrio Pena, Jesus Pena, Juan Pena, Gavanio Pena, Sumatria Pena, Nestoria Pena, and Francisco Pena. Plffs. appealed. S. F. and J. Reynolds for Appellants, M. A. Wheaton for Respondents. Judg't affirmed.

169. John A. Peck v. Levi Strauss and Henry L. Davis. Defts. appealed. G. F. & W. H. Sharp for Appellants, Doyle & Barber for Respondent. Judg't affirmed.

170. Thomas Carey v. The Philadelphia and California Petroleum Company. Deft. appealed. Glassell & Chapman for Appellant, V. E. & C. V. Howard for Respondent. Judg't affirmed.

171. John B. Frisbie v. Patrick Fogarty et als. Plff. appealed. Wm. S. Wells for Appellant, J. E. Pond for Respondent. Order reversed.

172. I. Friendlander v. George P. Loucks. Plff. appealed. Thos. A. Brown for Appellant, M. S. Chase for Respondent. Judg't affirmed.

173. Asa D. Nudd and Charles S. Lord v. I. D. Thompson and A. Harpending. Defts. appealed. Cope & Daingerfield for Appellants, McRea & Rhodes for Respondents. Judg't reversed and new trial ordered.

174. John Parrott v. Richard S. Den. Deft. appealed. Alexander Ely and George Turner, for Appellant, Edward J. Pringle, and Charles Fernald, for Respondent. Decree affirmed, with modifications.

175. George Barstow v. B. B. Newman et als. Defts. appealed. B. B. Newman for Appellants, Barstow & Tompkins for Respondents. Judg't affirmed.

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